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# THE CHARTERED ACCOUNTANT

JOURNAL OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

## CORPORATE GOVERNANCE



ICAI – SET UP BY AN ACT OF PARLIAMENT



# The Institute of Chartered Accountants of India

## Precautionary Measures Taken To Prevent Covid-19 Protect Yourself And Those Around You



Wash your hands  
regularly with  
soap and water



Make use of  
alcohol-based  
hand rub



Avoid  
touching  
your face



Maintain Social distance  
of at least '6 feet'  
between you and others



See a doctor  
if you  
feel unwell



While visiting a doctor  
wear a mask/cloth to cover  
your mouth and nose



Stop  
shaking  
hands



Take special care  
of the elderly



Don't  
share personal  
items



Clean and  
disinfect surfaces  
on regular basis



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and maintain  
a good hygiene



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and avoid  
unnecessary travel



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# Good Governance — Fundamental to Improving Transparency and Accountability

Businesses, quintessential for growth and economic development, function in different forms, shapes, and sizes, many times acquire corporate form of structure. With the potential of the Indian economy and the vast pool of available entrepreneurial interest the number of registered companies in the country continue to rise. Undeterred by the challenges posed by the pandemic, the number of companies registered under the Companies Act, 2013 have risen by 16,641 in the month of September, 2020 making 12,63,824 active companies. Companies with limited liability and perpetual existence make available vast resources to the businesses. In companies ownership and the management of business are separated out with shareholders, who provide capital, are different set from the people who actually manage the organisation. While board of directors, elected representatives of the shareholders oversee the management, senior executives are responsible for the day-to-day operations. As the ownership and the management is disassociated, there is a natural need for sound governance systems. The significance of the governance also increase manifold as business, as a part of society, must function for overall good of the society.

Corporate Governance in India has evolved over a long period of time. Bringing new dimensions, the Companies Act, 2013, brought several new provisions relating to independent directors, women directors, corporate social responsibility, mandatory compliance of secretarial standards, mandatory compliance of standards of accounting and like. The Companies Act, 2013 has undergone many amendments to suit the changing requirements. The system of corporate governance is aptly complemented by Securities and Exchange Board of India (SEBI). SEBI in the year 2015, issued the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, with the objective of streamlining and consolidating the provisions of various listing agreements in operation for different segments of the capital markets, such as equity shares, preference shares, debt instruments, units of mutual funds, Indian depository receipts, securitised debt instruments and other specified securities. The regulations are divided into two parts - the substantive provisions and the procedural requirements. At the same time, good governance has much wider ramifications and is not

exclusive domain for companies and listed entities. Today good governance is fundamental to improving transparency and accountability in other forms of business entities as well. This is important as good governance is not exclusive domain of corporate sector.

Incidentally, the stringent laws and regulations that are in place are not able to eliminate a few instances where management of the corporates have not acted in responsible manner and indulged in activities that are detrimental to owners, other stakeholders and the society. Chartered Accountants with their incisive skills can play a leading role in bringing good governance. While total elimination of such instances can be a utopian dream, their frequency and magnitude can certainly be reduced. In the evolving environment, Chartered Accountants need to master new competencies that will ensure their continued success. The knowledge and skills gained through the process of education and training and improved by a system of continuing professional education is fundamental to the profession and need to be used in conjunction with the time established virtues. Ethical conduct, keen observant, open-minded, versatile, diplomatic, quick decision maker, sensitive, team man are some of the virtues that set apart successful professionals. The accounting profession is dependent on the independence, integrity and excellence of its members and their consistent adherence to such sound virtues. In the matters related to corporate governance, professional accountants can acquire new roles that are key to effective functioning of the organisations. From critical jobs in the areas of financial reporting, internal control and finance to the overall in charge as Chief Executive Officers, professional accountants are well equipped to identify and improve practices being followed in the organisations and bring good governance. Chartered Accountants possess right skill sets that can help them to broaden their perspective and create value for the shareholders, other stakeholders and the society. They can leverage their capabilities in the areas of financial and non-financial information to help organisations in value creation and amalgamate environmental, social and governance factors in the business activities and its various reports.

— **Editorial Board ICAI: Partner in Nation Building**

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# From the President



CA. Atul Kumar Gupta  
President, ICAI

Dear Professional Colleagues,

Prudent corporate governance practices are always the backbone of development and progress of economic ecosystem of any country. After globalisation and liberalisation were introduced to the largest democracy of the world, international businesses looked at India with a new perspective and exploited untapped and immense potential of Indian markets. Changing ownership structures, wide base of shareholders and greater expectations of society further heightened the need of good governance and enhanced the role of accounting profession. A couple of financial irregularities, led the policy makers to rethink their strategies, strengthen regulatory environment by aligning with international developments and bring changes in the system of corporate governance for better. In a major overhaul, SEBI introduced clause 49 of the listing agreement that brought several governance shifts in a company's functioning. Under the overall guidance of Ministry of Corporate Affairs, mandatory and voluntary codes were introduced, to be followed by companies, that are related to board of directors, audit committees, whistleblower policies and disclosures on related

party transactions. The businesses are part of society and need to work for the society. The Companies Act, 2013 brought several exemplary changes in the direction of good corporate governance in the country. The Companies Act, 2013 casts fiduciary duties on the Directors of a Company to *promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, the shareholders, the community and for the protection of environment.*

With principled purpose, keen-eyed all-round observation and implementation of a host of decisions, the Institute of Chartered Accountants of India always work towards indispensable and integral elements of responsible corporate governance in the country with the encouraging accounting profession. The Institute of Chartered Accountants of India, consistently endeavoured to uphold the values of uncompromisable honesty and credible transparency in order to propagate ethical corporate governance in all forms and facets. ICAI firmly believes that authority is a concept not centric to absolute power but strongly intrinsic of constructive influence. Submitting to regulations and abiding by code of conduct without deceit, deception or duplicity ensures consistent strides on the path of inevitable success. Proper corporate governance guarantees individualistic and societal prosperity by circumventing losses and evading financial debacles.

## Governance with Sustainable Development

It is beyond an iota of doubt that the corporate reporting needs to capture all relevant information about organisations – what are they doing, how are they performing, and what values additions they have made. While good financial reporting is already being done through established systems, the investors, society and government today aspire much more. Various stakeholders are looking for deeper insights about the performance, risks, long-term prospects and report on creation of sustainable values that conventional financial reporting processes are not expected to deliver.

# From the President

Over the past decade there have been several developments at international levels that have highlighted need for businesses to be sustainable and more responsible. In line with the Sustainable Development Goals of United Nations, International Federation of Accountants has set an agenda for sustainable development. The Sustainable Development Goals provide a common framework for governments, business, and others to address systemic, interconnected development challenges covering poverty, inequality, climate change, peace and justice. In recent times, India apart from getting robust laws and regulations in place, has been taking a number of initiatives to support the cause. MCA urges businesses to actualise nine principles as part of *Guidelines on Responsible Business Conduct* and act in a socially, environmentally and economically responsible manner.

**Principle 1:** Businesses should conduct and govern themselves with integrity, and in a manner that is ethical, transparent, and accountable.

**Principle 2:** Businesses should provide goods and services in a manner that is sustainable and safe.

**Principle 3:** Businesses should respect and promote the well-being of all employees, including those in their value chains.

**Principle 4:** Businesses should respect the interests of and be responsive to all its stakeholders.

**Principle 5:** Businesses should respect and promote human rights.

**Principle 6:** Businesses should respect and make efforts to protect and restore the environment.

**Principle 7:** Businesses, when engaging in influencing public and regulatory policy, should do so in a manner that is responsible and transparent.

**Principle 8:** Businesses should promote inclusive growth and equitable development.

**Principle 9:** Businesses should engage with and provide value to their consumers in a responsible manner

I urge our members to keenly encourage the business community to follow these principles and work towards improving sustainability. Looking into the requirements, the ICAI also established Sustainability Reporting Standards Board this year to have a focussed framework. ICAI consistently attempts to release high quality standards and cultivate integrity and ethical conduct among all stakeholders. ICAI endeavours to stay up-to-date with the ever-altering world we live in and ensure the accountancy profession never ceases to grow, evolve and deliver for overall good. ICAI has always encouraged its members to stay in sync with the dynamic world around us and periodically replenish their wells of knowledge in order to derive perennial success and push for greater progress.

## Setting Global Footprints

The Institute envisions an intricately fraternised world linked together by the common object of global economic development via alliance of formerly isolated skills and collaboration of independent resources for an interdependent cause. After all, Martin Luther King Jr had once said “*We must learn to live together as brothers or perish together as fools.*” By conglomerating assorted strengths across the world, we can harness a universal invincible power that holds the potential to usher in a new era of global success. ICAI has over the years pioneered innumerable steps to unify efforts internationally towards the building of one global village. As a founder member of International Federation of Accountants and other key global and regional organisations, ICAI has been consistently working to shape the profession at global level by participating in their key activities. ICAI also enters into Mutual Recognition Agreements or have Memorandum of Understanding with the foreign Institutes to facilitate development of accounting profession. It is heartening that Union Cabinet has given its approval for two new agreements with foreign accounting bodies.

# From the President

## ***Mutual Recognition Agreement with Malaysian Institute of Certified Public Accountants (MICPA)***

The Union Cabinet chaired by the Prime Minister, Shri Narendra Modi has approved the Mutual Recognition Agreement (MRA) between the ICAI and MICPA to enable appropriately qualified Chartered Accountant members of either Institute to join the other Institute by receiving appropriate credit for their existing accountancy qualification. For the purpose, ICAI and MICPA would enter into an arrangement to recognise qualifications through specific module of papers and determine the basis upon which admission to membership of appropriately qualified members of the other body may occur. The proposed MRA will provide opportunity to both the Institutes to play the leadership role in addressing new challenges facing the profession in a globalized environment.

## ***Memorandum of Understanding with the Certified Practising Accountants, Papua New Guinea (CPA PNG)***

The Union Cabinet has also approved MoU between ICAI and CPA PNG to work together in capacity building and strengthening the Accounting, Financial and Audit Knowledge base in Papua New Guinea. The two institutes will also establish possible cooperation and collaboration in the areas of corporate governance, technical research and advice, quality assurance, forensic accounting, continuing professional development and work on other subjects of mutual interest. The two organisations will have student and faculty exchange programmes and also share professional information and develop modules for specific subjects for CPA, PNG Examination. They will also offer short term professional courses in the domain of accounting, finance and audit in PNG.

## ***MRA Signing Ceremony with the ICAN***

While we continue to explore new jurisdictions and territories for creating further opportunities for our members, we are also focusing on strengthening existing tie-ups. It gives me immense pleasure to inform you about the historic occasion of signing of the MRA between the Institute of Chartered Accountants of India and the Institute of Chartered

Accountants of Nepal held recently in virtual mode. Virtual, being the new normal, pandemic has not been able to restrict the commitment and the dedication of both the Institutes to serve towards the commonality of interests of the profession at either end. ICAI Nepal came into being in 1997 with the support of ICAI and the first formal MoU was signed in 1998. With this collaborative agreement is in place, now members of the either Institute can take up the membership of the other respective body.

Besides Presidents and Vice-Presidents of both the Institutions, the ceremony also witnessed gracious presence and address of Shri Hom Prasad Luitel, Counsellor of Nepal Embassy in India; Shri Kapidhwaja Pratap Singh, Second Secretary in Indian Embassy in Kathmandu and Joint Secretaries from Government of India, CA. Mahaveer Singhvi, MEA and Shri Manoj Pandey, Joint Secretary MCA.

## ***We Care – A Unique Social Security Scheme***

The raging pandemic is unprecedented to our generation severely affecting the physical movement and many activities. With our constant endeavours, we are able to reach and connect with the different segments of our membership be it in practice, industry, public service, entrepreneurship or women. In this direction, one of our important segments is Senior CAs (75 years and above) having different stature, requirements or expectations. With a view to support this valuable segment of our fraternity, we have recently launched a scheme “We Care – A Unique Social Security Scheme and Benevolence Program for Senior CAs” which endeavours for providing continuous engagement, care and support of the Profession to them creating a sense of belongingness. The Scheme was launched at the august presence of *Shri Arjun Ram Meghwal*, Hon’ble Minister of State in the Ministry of Parliamentary Affairs, and Heavy Industries & Public Enterprises who highly appreciated this initiative and mentioned that it is the need of the society.

## ***New Portal for CABF***

ICAI constantly endeavours to use more and more technology to provide ease of service

# From the President

delivery experience to our stakeholders. Chartered Accountants Benevolent Fund (CABF) is one of the important initiatives of the ICAI providing support to the members/family in the time of need. With the launch of the CA Benevolent Fund Portal ([cabf.icaai.org](http://cabf.icaai.org)) recently the process has been fully automated for providing financial assistance under CABF with provision to upload all relevant supporting documents. Further, portal will also enable online payment of contribution and auto-generation of receipt. I am sure with this technology platform, we will be able to provide support to our fraternity in a more prompt and transparent manner.

## Waiver of Condonation/Late fee

I further wish to inform that considering the hardship faced by the students, article assistants, members and firms due to COVID-19 pandemic, we have further extended the waiving-off of the condonation fee for late filing of various application forms relating to students, article assistants, members and firms till December 31, 2020.

## Working for the Well-being of the Students

The Institute implemented a new scheme of education and training from 1<sup>st</sup> July, 2017. In the scheme, a student who has appeared for class XII examination may register for the Foundation Course after passing class XII examinations and after completing a minimum of four months study period, student may appear for the Foundation Examination. It was observed that a student who is typically appearing in class XII examination in the month of March and getting his results in the month of May, loses out one academic session if he decides to join CA course. This was a crucial loss to the students aspiring to join CA course at an early age. With the prime objective to develop the requisite skill sets for budding Chartered Accountants and enrichment of their professional skills, and also to mitigate above hardship it was proposed to allow provisional registration to the students in advance and start preparing for the Foundation Course. It is heartening that the Competent Authority has conveyed its approval on the ICAI proposal for amending the Regulations 25E, 25F & 28F of Chartered Accountants Regulations, 1988 which

now enables candidate to provisionally register in the Foundation Course of the Institute of Chartered Accountants of India (ICAI) after passing Class X examinations. Accordingly, a student has to register with the Board of Studies of the Institute on or before 1<sup>st</sup> day of January or 1<sup>st</sup> day of July for the examination to be held in the months of May/June or November/December, respectively. This will help the students to prepare for Foundation course while pursuing Class XI & XII, and thus students would have ample time to update their knowledge and acquire requisite techniques to appear and pass CA Foundation.

\*\*\*\*\*

An integral constituent of growth and development of mankind is the progress in the trade and commerce. Mankind has come far and away from the yesteryears to move ahead in the times witnessing changes unimaginable. From barter to cashless – changes are many and in last couple of decades their intensity and swiftness has only increased exponentially with no stoppage, and who would want growth and development to stop. The presence and growth of business are themselves strong justifications of the importance of economic activity. The nations and society never lose their focus on the business and economic growth, come what may. Even in these challenging times, in the midst of social distancing, nations across the globe have kept the economic matters at equitable footing, when considering matters related to health and well being of their people. For challenges of today cannot be allowed to stifle and jeopardise our tomorrow.

On this note, I would like to conclude with warm greetings on upcoming festivities.

Stay safe and healthy.

Jai Hind, Jai ICAI,



**CA. Atul Kumar Gupta**  
President, ICAI

New Delhi, 1<sup>st</sup> November, 2020

# Photographs



## Launch of 'WE CARE' Benevolence Scheme for senior CA members at ICAI Bhawan, New Delhi

ICAI President CA. Atul Kumar Gupta and ICAI Vice-President CA. Nihar Niranjan Jambusaria with Chief Guest Hon'ble Minister of State for Parliamentary Affairs, Heavy Industries and Public Enterprises Shri Arjun Ram Meghwal. Also seen in picture, Central Council members CA. Anuj Goyal, CA. Dayaniwas Sharma, CA. Sanjeev Singhal, CA. Rajesh Sharma, CA. Prakash Sharma, CA. Manu Agrawal, CA. Hans Raj Chugh, CA. Charanjot Singh Nanda and ICAI Acting Secretary Sh Rakesh Sehgal on the occasion (22.10.2020)



## Virtual MRA Signing Ceremony

ICAI President CA. Atul Kumar Gupta and ICAI Vice-President CA. Nihar Niranjan Jambusaria along with their Central Council colleagues during Virtual MRA Signing Ceremony between the Institute of Chartered Accountants of India (ICAI) and Institute of Chartered Accountants of Nepal (ICAN) at ICAI Bhawan, New Delhi (22.10.2020)



## ICAI in Action

### ICAI Campus Placement Programme - Upsurge in the Demand for Chartered Accountants

During the current year, as the pandemic has restricted the physical movement towards organising any event/campus placement, ICAI is not letting the newly qualified Chartered Accountants miss opportunities. The Institute organised the first ever Campus Placement through virtual mode. It is heartening that there has been an increase of 37% in demand for newly qualified CAs for employment in industry as evident through the campus placement programme concluded recently. During the programme 2923 jobs were offered with an average salary of ₹ 8.91 lakhs. ICAI also recently organised placement programme for experienced CAs also titled, "Career Ascent" for which interviews were held from 22<sup>nd</sup> to 28<sup>th</sup> September, 2020.

### Advisory on Website

The ICAI Council issued the Website Guidelines in the year 2001, which have been revised from time to time. The Guidelines, as revised in the 388<sup>th</sup> Meeting of Council held on 6<sup>th</sup> and 7<sup>th</sup> February, 2020, forms part of Volume-II of Code of Ethics, 2020, which may be accessed at the website of the Institute at <https://www.icai.org/resource/60018code-of-ethics-2020vol2.pdf>. The Guidelines are also available at the website of Ethical Standards Board i.e. [esb.icai.org](http://esb.icai.org). The Website Guidelines have been formulated by the Council in a manner so as to permit members and Firms to have own Website without hitting the provisions of Clauses (6) and (7).

The Clauses (6) and (7) of Part-I of First Schedule to The Chartered Accountants Act, 1949 ("Act") bar solicitation and advertisement, respectively. It is obligatory to comply with the Guidelines of the Council in terms of the provisions of Clause (1) of Part-II of Second Schedule to the Act. The non-compliance with any Guidelines issued by the Council is deemed as professional misconduct in terms of the provisions of above-mentioned Clause.

Members may go through the guidelines available at - <https://www.icai.org/post/advisory-website-guidelines-of-the-institute>. In order that the remain in the purview of the provisions of the Act and Code of Ethics, the members are advised to align their websites with the Website Guidelines.

### ICAI Global week

The Committee for Development of International

Trade, Services & WTO of ICAI, has recently conducted ICAI Global week on the theme "*Promoting accounting and finance services globally*" from 27<sup>th</sup> September 2020 to 1<sup>st</sup> October 2020; which was an attempt towards positioning India as Accounting and Financial Services Hub for the world. This Global week had inspired our members to work in global arena, innovate their services to cater to global clients and has unfolded the wings to tap opportunities for Indian Chartered Accountants in new jurisdictions.

We were fortunate to have a wide range of speakers from all arena like Foreign Embassies, Indian mission abroad, Chamber of Commerce, Bankers, and Industrialists to have overall guidance to our members to tap the opportunities and promote accounting and finance services globally. This program dwelled upon the economic environment in different jurisdiction, opportunities available, skills and knowledge required and potential for Indian Chartered Accountants. The detailed report of the ICAI Global week is available at the ICAI website.

During the Global week, ICAI has signed *MoU with Export Promotion Council for EoUs and SEZs (EPCES)* with an aim to further stepping towards Partner in Nation Building and to enhance the competitiveness of India's exports in Accounting and Finance Services through implementation of the focused and monitored Action Plan and also to support the industries by way of economical and commercial knowledge under EOUs and SEZs.

### Further extensions regarding the validity of Peer Review Certificate

As the Nation is still under the effect of COVID -19 pandemic, members are facing hardships in getting the Peer Review Process completed. Accordingly, the Peer Review Board has granted further extension to Practice Units mentioned under Point no. C . These should be read in conjunction with the Announcement dated 29.5.2020. The details are available at <https://www.icai.org/post/further-extensions-validity-peerreview-certificate-in-the-wake-of-covid-19>

### Extension of the last date for payment of Membership/ COP fee

In the present challenging times some of the members were facing difficulties in the payment of Membership/ COP fee in a timely manner. The Council of ICAI considering the request from Members at large has decided to extend the last date for payment of Membership/ COP fee from 30<sup>th</sup> September, 2020 to 30<sup>th</sup> November, 2020. Members

# Developments

are encouraged to make the payments at their earliest convenience to avoid the hardships involved with the late payment or non-payment.

## Indian Accounting Standards: An Overview (Revised 2020)

ICAI has released fifth edition of the publication Indian Accounting Standards: An Overview, a publication that provides information on the basic aspects of applicable Ind AS in a summarised manner and brings out differences between Ind AS and AS and Ind AS and IFRS. It captures all the amendments to Ind ASs notified by the MCA vide notification dated 24 July 2020, as Companies (Indian Accounting Standards) Amendment Rules, 2020, comprising critical amendments to Ind AS which are applicable for the accounting year beginning on or after April 1, 2020. Members can download a copy of the publication from the link <https://www.icai.org/resource/61361asb-indas-overview2020.pdf>

## Quick Insight on Professional Opportunities abroad for Indian Chartered Accountants

ICAI has always endeavored to enhance the quality as well as number of professional opportunities that are available to the members. In order to expand opportunities in foreign jurisdictions ICAI takes a number of initiatives. ICAI has 36 Overseas Chapters and 17 Representative Offices in different parts of the globe to take forward the ICAI footprints and expand the professional opportunities. In order to provide information in the form of ready reckoner to prospective aspirants for tapping such promising opportunities, the Committee for Development of International Trade, Services & WTO of the ICAI has brought out a publication - Quick Insights on Professional Opportunities Abroad for Indian Chartered Accountants. The publication is aimed at providing qualitative and precise information which is of relevance and useful to the members. A copy of the publication is available at <https://www.icai.org/cditswto-ebook/index.html>

## Exposure Drafts of Forensic Accounting and Investigation Standards (FAIS) - Invitation for Comments

The Digital Accounting Assurance Board of The Institute of Chartered Accountants of India (ICAI) invites comments on the following exposure drafts of Forensic Accounting and Investigation Standards (FAIS):

- Exposure Draft on Standard on Forensic Accounting and Investigation (FAIS) – Engagement Objectives – 210 (<https://www.icai.org/resource/61405daab49974-ed210.pdf>)
- Exposure Draft on Standard on Forensic Accounting and Investigation (FAIS) – Engaging with Agencies – 240 (<https://www.icai.org/resource/61406daab49974-ed240.pdf>)
- Exposure Draft on Standard on Forensic Accounting and Investigation (FAIS) – Planning the Assignment – 310 (<https://www.icai.org/resource/61407daab49974-ed310.pdf>)
- Exposure Draft on Standard on Forensic Accounting and Investigation (FAIS) – Evidence and Documentation – 320 (<https://www.icai.org/resource/61408daab49974-ed320.pdf>)
- Exposure Draft on Standard on Forensic Accounting and Investigation (FAIS) – Conducting Work Procedures – 330 (<https://www.icai.org/resource/61409daab49974-ed330.pdf>)
- Exposure Draft on Standard on Forensic Accounting and Investigation (FAIS) – Conducting Interviews – 340 (<https://www.icai.org/resource/61411daab49974-ed340.pdf>)
- Exposure Draft on Standard on Forensic Accounting and Investigation (FAIS) – Review and Supervision – 350 (<https://www.icai.org/resource/61410daab49974-ed350.pdf>)

Members may go through the above exposure drafts and submit their comments. Last Date for Submitting Comments is November 09, 2020. Submission links are available within the respective files that can be assessed after downloading.

## Programmes by IIM Ahmedabad Under MoU with ICAI

The Memorandum of Understanding (MoU) signed between The Institute of Chartered Accountants of India (ICAI) and Indian Institute of Management Ahmedabad (IIMA) enables mutual co-operation for offering and co-hosting open-enrolment and customized training programmes exclusively designed, developed and delivered for Chartered Accountants. As part of the MOU, IIMA has been offering two programmes explicitly designed for young and experienced CAs. This year, because of Covid-19 pandemic, the two programmes will be conducted via an online platform in 100% live sessions through direct-to-device mode. The interactive programme will be conducted using case-based teaching pedagogy to help participants acquire cross-functional perspective and improve personal effectiveness to become an effective manager.

# Disclosure/Classification of Late Payment Interest Charges Collected from Customers in the Statement of Cash Flows

## A. Facts of the Case

1. A company (hereinafter referred to as 'the company') is a public limited company domiciled in India and incorporated under the provisions of the Companies Act. The company is a government company under section 2(45) of Companies Act, 2013. Its shares are listed on Bombay Stock Exchange and National Stock Exchange in India. The company is engaged in the business of distribution of natural gas in various cities/districts in India. Natural gas business involves distribution of gas from sources of supply to centres of demand and to the end-user customer, i.e., industrial, commercial, domestic customers and CNG to transporter as fuel.
2. The querist has stated that the company prepares its annual financial statements as per the provisions of the Companies Act, 2013 and follows financial year as its accounting year. Sales are billed bi-monthly for domestic customers, monthly/fortnightly for commercial and non-commercial customers and fortnightly for industrial customers and billed on the spot / daily / weekly / fortnightly cycle in case of CNG customers.
3. Further, the company charges late payment charges/delayed interest charge on overdue balances to the customers who have not paid the bill within due date as per published tariff or as per Gas sales agreement signed with respective customers. The late payment charges are fixed amount in case of domestic customers (irrespective of the days of delay) and variable percentage in case of other categories of customers on overdue amount for delayed days.

4. As informed by the querist, during the financial year 2018-19, the company has collected ₹ 19.70 crores as late payment charges broken up into ₹8.24 crores from domestic customers and ₹11.46 crores from industrial and commercial customers. This has been accounted and disclosed as 'Interest Income' under the head 'Other Income' in the annual accounts. An extract of the financial statements has been provided as below:

### "Note 31

#### OTHER INCOME

(₹ in Crores)

| Particulars   | For the year ended           | For the year ended           |
|---|------------------------------|------------------------------|
|   | 31 <sup>st</sup> March, 2019 | 31 <sup>st</sup> March, 2018 |
| <b>Interest Income (including interest on tax refunds ₹ 55.29 Crores, Previous year ₹ 0.53 Crores)*</b> | <b>98.61</b>                 | <b>27.77</b>                 |
| Provisions no longer required written back  | 2.91                         | 0.55                         |
| Profit/(Loss) on sale as scrap and diminution in Capital Inventory                                      | -                            | 0.53                         |
| Other Non-Operating Income  | 9.76                         | 6.83                         |
| <b>Total</b>  | <b>111.28</b>                | <b>35.68</b>                 |

\*Includes interest income on deposits, staff advances, employee loans and delayed payments from customers.

Detailed break-up of interest income of the company is as below:

(₹ in Crores)

| Sr. No. | Other Interest (including interest on income tax refunds) | for the year ended 31 <sup>st</sup> March - 2019 | for the year ended 31 <sup>st</sup> March - 2018 |
|---------|---|--|--|
| 1       | Late payment charges – Customer                           | 8.24   | 8.22   |
| 2       | Interest on delayed payment - Customer                    | 11.46  | 6.75   |
|         | <b>Interest income from customers for delayed payment</b> | <b>19.70</b>                                     | <b>14.97</b>                                     |
| 3       | Interest On Income Tax Refund                             | 55.29  | 0.53   |
| 4       | Interest on Fixed Deposits / Bank Balances                | 23.27  | 11.76  |
| 5       | Interest income - others (on loan & advances & deposits)  | 0.34   | 0.50   |
|         | <b>Total</b>  | <b>98.61</b>                                     | <b>27.77</b>                                     |

5. The querist has stated that the treatment in the statement of cash flows is as follows:

A. *Late payment charges and interest on late payment charges*

In the statement of cash flows, the late payment charges and interest on late payment charges ₹19.70 crores have been adjusted as non-cash item from net profit before tax for determining Cash flow from Operating Activities. Further, since the income has been shown as a non-operating income, for the purposes of statement of cash flows, it has been classified under the head 'Cash flow from Investing Activities'.

B. *Other interest income including interest on income tax refunds*

In the statement of cash flows, other interest income including interest on income tax refunds of ₹55.29 crores has been adjusted as non-cash item from net profit before tax for determining 'Cash flow from Operating Activities'. Further, since the income has been shown as a non-operating income, for the purposes of statement of cash flows, it has been classified under the head 'Cash flow from Investing Activities'.

6. The querist has informed that the Office of Comptroller and Auditor General of India (C&AG) had conducted the supplementary audit of annual accounts of the company under section 145(6)(b) of the Companies Act, 2013 and issued the following comment on the annual accounts for the financial year 2018-19 vide letter dated 09.07.2019 (Copy of comments received from C&AG Office has been supplied by the querist for the perusal of the Committee):

### *Statement of Cash Flows*

*Net Cash Flows from Investing Activities – (₹ 604.19 crores)*

*Interest Received – ₹ 95.83 crores*

The above includes interest income of ₹19.70 crores comprising of late payment charges of ₹ 8.24 crores and interest on late payment charges ₹11.46 crores collected from domestic, industrial and commercial customers. The same has been adjusted as non-cash item from net profit before tax for determining 'Cash flow from Operating Activities' and has been classified under the head of Cash flow from Investing Activities.

As late payment charges and interest on late payment charges of ₹19.70 crores pertain to the operational activities of the company, the same should have been classified under the head of Cash flow from Operating Activities instead of Cash flow from Investing Activities.

This has resulted in understatement of Cash flow from Operating Activities and overstatement of Cash flow from Investing Activities by ₹ 19.70 crores.

7. *Company's views:* In the statement of cash flows, the late payment charges and interest on late payment charges have been adjusted /deducted as Other items for which the cash effects are investing or financing cash flows from 'Net profit before tax' for determining 'Cash flow from Operating Activities' and has been classified under the head of 'Cash flow from Investing Activities' based on the following grounds:

(i) Paragraphs 31 and 33 of Indian Accounting Standard (Ind AS) 7, 'Statement of Cash Flows', provide as follows:

*“Interest and dividends*

**31 Cash flows from interest and dividends received and paid shall each be disclosed separately. Cash flows arising from interest paid and interest and dividends received in the case of a financial institution should be classified as cash flows arising from operating activities. In the case of other entities, cash flows arising from interest paid should be classified as cash flows from financing activities while interest and dividends received should be classified as cash flows from investing activities. Dividends paid should be classified as cash flows from financing activities.”**

“33 Interest paid and interest and dividends received are usually classified as operating cash flows for a financial institution. However, there is no consensus on the classification of these cash flows for other entities. Some argue that interest paid and interest and dividends received may be classified as operating cash flows because they enter into the determination of profit or loss. *However, it is more appropriate that interest paid and interest and dividends received are classified as financing cash flows and investing cash flows respectively, because they are costs of obtaining financial resources or returns on investments.*”

In reference to the above definition and provisions of Ind AS, *it is more appropriate that interest received is classified as investing cash flows, because they are costs of obtaining financial resources or returns on investments.*

- (ii) Paragraph 9.2 of the Guidance Note on Division II – Ind AS Schedule III to the Companies Act, 2013 (revised July, 2019 Edition), issued by the Institute of Chartered Accountants of India (ICAI), *inter alia*, states that “...‘Other Income’ shall be classified as:
- (a) Interest Income ...

Ind AS 107, paragraph 20(b) requires total interest revenue calculated using the effective interest method for financial assets that are measured at amortized cost and that are measured at FVOCI, to be shown separately.

Accordingly, ‘Interest Income’ for financial assets measured at amortized cost and for financial assets measured at FVOCI, calculated using effective interest method, should be presented in separate line items under ‘Other Income.’

Based on the above guidance, the company has consistently followed the practice to present interest income as part of ‘Other Income’.

Further, with respect to ‘other income’, the Guidance Note on Division I – Non Ind AS Schedule III to the Companies Act, 2013 (paragraph 9.2.2) provides that all *kinds of interest income for a company other than a finance company should be disclosed under ‘Other Income’. Examples of other income are interest on fixed deposits, interest from customers on amount overdue, etc.*

- (iii) Paragraph 9.1.8 of the Guidance Note on Division II - Ind AS Schedule III to the Companies Act 2013 provides that, “The term “other operating revenue” is not defined. This would include Revenue arising from a company’s operating activities, i.e., either its principal or ancillary revenue-generating activities, but which is not revenue arising from the sale of products or rendering of services. *Whether a particular income constitutes “other operating revenue” or “other income” is to be decided based on the facts of each case and detailed understanding of the company’s activities.*”

Further, paragraph 14 of Ind AS 7, ‘Statement of Cash Flows’, states that “Cash flows from operating activities are *primarily derived from the principal revenue-producing activities of the entity. ...*” Operating activities are the principal revenue-producing activities of the entity and other activities that are not investing or financing activities. Hence the interest received of ₹ 19.70 crores collected from customers towards interest on late payment charges is not the principal operating revenue-producing activities of the company.

- (iv) Further, Trade receivable is treated as financial assets in financial statements prepared under Ind AS and overdue amount after due date is an indirect way of financing the customer. The late payment interest charges would presumably be based on

calculations using effective Interest method (EIR) which is under Ind AS 109 and accordingly, 'Interest Income' for financial assets should be presented in separate line items under 'Other Income'.

Further, paragraph 65 of Ind AS 115, 'Revenue from Contracts with Customers' states that, "an entity shall present the effects of financing (interest revenue or interest expense) separately from revenue from contracts with customers in the statement of profit and loss. Interest revenue or interest expense is recognised only to the extent that a *contract asset* (or receivable) or a contract liability is recognised in accounting for a contract with a customer". It does not define operating or non-operating. Hence, based on the Guidance Note on Schedule III and Ind AS, the company opted to show this as non-operating since these were infrequent. This policy has been consistently followed, as management is of the view that this presents the true and fair picture.

- (v) Further, the same treatment has been given by other entities for interest and late payment charges collected from customers towards overdue outstanding; and same are treated as 'other income' and disclosed under 'Cash Flow from Investing Activities' in the Statement of Cash Flows.

Accordingly, the company has classified the interest received of ₹ 19.70 crores collected from customers towards interest on late payment charges as 'Cash Flow from Investing Activities'. Further, the company has been following the same practice consistently.

(Emphasis supplied by the querist.)

## B. Query

8. On the basis of above, the company has sought the opinion of the Expert Advisory Committee of the ICAI as to whether the disclosure already given by the company relating to interest income collected from customers towards late payment charges as interest received in the statement of cash flows (adjusted as non-cash item from net profit before tax for determining Cash Flow from Operating Activities and has been classified under the head of Cash Flow from Investing Activities) is in order or not. If not, then what is the correct disclosure/classification of the same?

## C. Points considered by the Committee

9. The Committee notes that the basic issue raised in the query relates to the disclosure of interest income collected from customers towards late payment charges/delayed interest charges (hereinafter referred to as 'the late payment charges') in the statement of cash flows. The Committee has, therefore, considered only this issue and has not considered any other issue that may arise from the Facts of the Case, such as, presentation and disclosure in the statement of profit and loss, measurement of late payment charges, timing of recognition, accounting for interest on income tax refunds, determination of transaction price, separation of financing component or other aspects for revenue recognition/ measurement under Ind AS 115, initial recognition/measurement of the receivables, detailed aspects related to calculation of interest income, timing of recognition, applicability of Ind AS 114, 'Regulatory Deferral Accounts' and Ind AS 116, 'Leases' (as the same have not been specifically referred to by the querist in the extant case), etc. At the outset, the Committee wishes to point out that the opinion expressed hereinafter is in the context of Indian Accounting Standards, notified by the Companies (Indian Accounting Standards) Rules, 2015 as amended from time to time. Further, the opinion issued is purely from accounting perspective and not from the perspective of legal interpretation of Tariff Regulations or gas sales agreement, etc.
10. The Committee notes that in order to determine the appropriateness of presentation of this income, it is necessary to evaluate the nature of late payment charges. In this context, the Committee notes from the Facts of the Case that the company charges late payment charges/delayed interest charge on overdue balances to the customers who have not paid the bill within due date as per published tariff or as per Gas sales agreement signed with respective customers; and that the late payment charges are fixed amount in case of domestic customers (irrespective of the days of delay) and variable percentage in case of other categories of customers. Thus, in case of customers other than domestic customers, the amount of consideration varies due to difference in timing of payments (as the consideration will increase with increase in timing of payment) and therefore, it appears that the late payment interest/charge in such a case is directly linked to the timing of payment by the customers. Therefore, the Committee is of the view that the late payment interest/charge is of the nature

of finance income in the case of customers other than domestic customers and should be accounted for and presented accordingly in the financial statements.

11. Having determined that the late payment charges are in the nature of finance income, with regard to presentation in the statement of cash flows, the Committee notes the following requirements of Ind AS 7:

“33 Interest paid and interest and dividends received are usually classified as operating cash flows for a financial institution. However, there is no consensus on the classification of these cash flows for other entities. Some argue that interest paid and interest and dividends received may be classified as operating cash flows because they enter into the determination of profit or loss. However, it is more appropriate that interest paid and interest and dividends received are classified as financing cash flows and investing cash flows respectively, because they are costs of obtaining financial resources or returns on investments.”

“11 An entity presents its cash flows from operating, investing and financing activities in a manner which is most appropriate to its business. Classification by activity provides information that allows users to assess the impact of those activities on the financial position of the entity and the amount of its cash and cash equivalents. This information may also be used to evaluate the relationships among those activities.”

From the above, the Committee is of the view that considering the business of the company of distribution of natural gas and that the company is not a financial institution/NBFC, the late payment interest/charge in case of customers other than domestic customers in the extant case, should be presented as ‘cash flows from investing activities’.

12. As far as the domestic customers are concerned, the Committee notes that the late payment charges are fixed amount, irrespective of the days of delay and therefore, the Committee is of the view that the company should consider its facts and circumstances to determine as to whether the same, in substance, represents a compensation for time value of money or whether

it is compensation for some other element, such as penalty. The Committee is further of the view that to the extent, it represents time value of money, it should be presented as ‘cash flows from investing activities’, otherwise, it should be considered and presented as ‘cash flows from operating activities’.

## D. Opinion

13. On the basis of the above, the Committee is of the view that considering the business of the company of distribution of natural gas and that the company is not a financial institution/NBFC, the late payment interest/charge in case of customers other than domestic customers in the extant case should be presented as ‘cash flows from investing activities’, as discussed in paragraphs 10 and 11 above. As far as domestic customers are concerned, the late payment interest/charge, to the extent, it represents time value of money, should be presented as ‘cash flows from investing activities’, otherwise, it should be considered and presented as ‘cash flows from operating activities’, as discussed in paragraph 12 above.

|    |  |
|----|--|
| 1. | The Opinion is only that of the Expert Advisory Committee and does not necessarily represent the Opinion of the Council of the Institute.  |
| 2. | The Opinion is based on the facts supplied and in the specific circumstances of the querist. The Committee finalised the Opinion on November 21, 2019. The Opinion must, therefore, be read in the light of any amendments and/or other developments subsequent to the issuance of Opinion by the Committee.   |
| 3. | The Compendium of Opinions containing the Opinions of Expert Advisory Committee has been published in thirty six volumes. A CD of Compendium of Opinions containing thirty six volumes has also been released by the Committee. These are available for sale at the Institute’s office at New Delhi and its regional council offices at Mumbai, Chennai, Kolkata and Kanpur. |
| 4. | Recent opinions of the Committee are available on the website of the Institute under the head ‘Resources’.   |
| 5. | Opinions can be obtained from EAC as per its Advisory Service Rules which are available on the website of the ICAI, under the head ‘Resources’. For further information, write to <a href="mailto:eac@icai.in">eac@icai.in</a> .   |

## Industry Perspective on Governance

*Corporate Governance has been in the limelight in the recent past, particularly with the enactment of the Companies Act, 2013. History shows that whenever there are major scams or stock market crashes, invariably regulations are introduced by Governments across the world to address the causes of the scam. The article attempts to discuss areas that are not mandated by legislation generally but those which enterprises could focus on to help them maintain high corporate governance standards.*



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The Securities and Exchange Commission in the US was established in 1934 as a reaction to the stock market crash in 1929. The Sarbanes Oxley Act came about in 2002 as a response to the Enron and WorldCom scams. The Companies Act, 2013, itself was most probably, a reaction to the Satyam and the Sahara scams. Most of the new regulations were made to address the issues that led to the scams. However, while the new laws will possibly help in preventing scams of similar nature, there still remains possibilities of more such occurrences in the future. Recently, the Wirecard scam in Germany seems to almost mirror what happened

in the Satyam scam. Secondly, we may still find some people thinking of newer ways to commit fraud. Recent legislation has put the onus on governance, significantly on the CFO and the Company Secretary, besides the Managing Director/CEO as Key management personnel (KMP). It is therefore, in the interest of KMPs, apart from the Board of the Company, to ensure that governance standards are high in the enterprise.

There is also a limit to which law and regulation can address the issue of governance. Corporate governance standards will improve substantially if there is a significant reward to improving them. Companies with high governance standards





Companies following good corporate governance have specific codes of conduct and various policies on issues like ethics, whistleblowing, sexual harassment, insider trading, etc. that are detailed and cascaded frequently to their employees.

are rewarded substantially with much higher Price Earnings multiples, thereby increasing their market capitalisation substantially. Further banks tend to offer the required funding at more attractive rates because of the lower perceived risk profile. Therefore, it is in the long term interest of enterprises to maintain high levels of corporate governance.

## Focus Areas for Enterprises for Maintaining High Standards of Corporate Governance

### Corporate Culture

The culture of an organisation starts with the belief of the promoter and top management as to how they wish to conduct themselves. Cultures that do not compromise on integrity, believe in upholding the law of the land in letter and spirit and encourage their employees to speak out without fear when they observe a wrong doing, invariably end up with

good governance platforms. Companies following good corporate governance have specific codes of conduct and various policies on issues like ethics, whistleblowing, sexual harassment, insider trading, etc. that are detailed and cascaded frequently to their employees. The important aspect here is that these organisations should actually believe in the codes and policies deeply rather than just put them out to “tick the box” from a governance perspective.

### Board of Directors

The independence of the Board is critical to good governance standards. While all Directors have a fiduciary responsibility to the organisation in whose Boards they are, many Boards do tend to get swayed by the views of the promoter’s or the principal shareholder’s views. Board members, and not just independent Board members, need to realise that their duty is to ensure the benefit of the organisation and not one section of shareholders. The more a Board is truly independent, the better the governance of an organisation will be. It is important that minutes of Board meetings record dissenting views. It is also recommended that meetings of independent Directors are also held periodically so they can discuss issues on governance between themselves. Companies also should have good onboarding programmes for new Directors to help them familiarise with the company and its operations. Another good practice is

sending a note on recent regulatory changes to the Board on a quarterly basis.

Board Committees make an important part of the governance structure of a company. The Board Audit Committee (BAC) is one of the most important committees of the Board and has a very big role in driving good governance. While regulations today require the BAC to be manned with at least one financial expert and the others to be financially literate, what is critical is the independence that this committee demonstrates. The BAC has a significant role to play in ensuring that the financials presented give a true and fair view of the company, related party transactions are in the normal course of business and are at arm’s length, the control environment is adequate



The more a Board is truly independent, the better the governance of an organisation will be. It is important that minutes of Board meetings record dissenting views. It is also recommended that meetings of independent Directors are also held periodically so they can discuss issues on governance between themselves.

for the efficient running of the organisation and frauds and wrong doings that come to their notice are thoroughly investigated. It is a good practice for the BAC and / or the BAC Chairman to meet up with the CFO and the auditors separately before the BAC meeting so there is better understanding of issues and any concerns that the CFO or auditors have can be expressed freely to the BAC.

The Board Nominations and Remuneration Committee (NRC) is an equally important committee that is responsible for hiring and fixing remuneration for the top management. The NRC ensures that there is sufficient oversight on accountability and rewards for management. There is then the Stakeholder committee that oversees relationship and handling of problems with shareholders and in some companies, an Ethics committee as well that deals with issues of integrity and whistleblowing if not handled by the BAC. While the Board is overall responsible for corporate governance of an organisation, the independence and diligence exhibited by these sub-committees are crucial to helping the Board accomplishing the same.

Risk management is another important aspect of governance and Board Risk Management committees can play a significant role in identifying risks of all types (statutory, business, sustainability, environment, competition, obsolescence, etc.) so the company can work on risk

mitigation if and when the risks were to occur.

## *Management*

The world is possibly moving from pure shareholder focus to an all stakeholder perspective. Investors are also looking for organisations that are looking long term and have sustainable business models. Organisations that have focused on multiple stakeholder interests and sustainability have actually ended up enhancing shareholder returns substantially. Most of the managements, therefore, are reorienting their focus on all stakeholders. Importantly, belief in the core values and good governance standards for the company is critical for the management team and these beliefs need to be cascaded to all levels of the organisation.

## *Audit*

Statutory and internal audits are mandated by the Companies Act. Here again, it is how companies use these control mechanisms that make a difference to their governance standards. Independence of auditors is paramount. Both statutory and internal auditors should preferably report to



**Automation could take out the probability of errors not only by omission but probably also by commission too.**

the BAC of the company. The BAC should have the final say on appointment and remuneration of both these auditors. While it is practical for the internal auditor to report to the CEO/MD of the company for administration purposes, the reporting line to the BAC on functional matters should not be compromised. There has also been a constant debate on focus areas for internal audit - assurance or advisory. While the degree of focus on the two aspects may depend on the organisation itself, it is important that the focus on assurance is never compromised.

## *Internal Financial Controls (IFC)*

The Companies Act, 2013, introduced the need for management of companies and its auditors to certify the





Proactively interacting with investors to keep them posted of key developments in the company is a sign of good governance.

level and efficacy of internal financial controls in place in the company. This followed the regulations as stipulated under the Sarbanes Oxley Act in the US. Onerous as it seemed at the time of initial compliance, the monitoring of IFC has helped organisations in focusing and substantially improving control mechanisms through use of tools like automation, work flows and self-assessment tests, thereby considerably improving governance standards.

### **Automation and Analytics**

Automation has been the buzzword in the last many years and while the aim primarily was towards improving efficiency, the role that it has played in actually improving the control environment tends to be understated. Automation could take out the probability of errors not only by omission but probably also by commission too. Similarly while analytics is used to get more information in improving business objectives, it also plays a very useful tool in detecting frauds and errors if used properly by the Finance team.

### **Investor relations**

Investor relations, is a function that is an important one in

the context of listed entities. While the promoter of the company or the majority shareholder typically is aware of the happenings within an organisation and is privy to the strategy, outlook and actual performance of a company, the minority shareholders do not get the same benefit. This is where *investor relations* come in. Stock exchange regulations require financial information or other significant price sensitive information to be disseminated, simultaneously. And while the company may do so because of legislation in place, proactively interacting with investors to keep them posted of key developments in the company including possible impact of recent regulations on business; change in strategy or direction; the company wishes to take; change in top management; effect of competition, etc., is a sign of good governance.

### **Transparency**

This is the hallmark of good corporate governance. Transparency between management and the employees of the company, the management and the Board of Directors, the company and the external world particularly regulatory bodies or investors or media, etc. is an essential part of good governance. Transparency is normally easy and natural when sharing good news to the various stakeholders, but sharing bad news and that too promptly, is what differentiates companies with good governance from those without.

Of late, Auditors (Statutory and internal), Board Audit

committees and Chief Financial Officers (CFO) are being charged for direct responsibility in various companies that are being prosecuted for frauds and serious governance issues. It is concerning that in some cases, it appears that the lack of ability to repay debt possibly due to business factors are also being brought under the ambit of wilful defaults and CFOs are being prosecuted for the same. Prosecution in some cases has included freezing of personal assets. Under these circumstances, the need to focus on good governance, ensuring timely and adequate disclosure of price sensitive information and dealing with all stakeholders particularly lenders with full transparency cannot be overstated.



Transparency is normally easy and natural when sharing good news to the various stakeholders, but sharing bad news and that too promptly, is what differentiates companies with good governance from those without.

### **Concluding Thoughts**

Focussing on maintaining high standards of corporate governance in above areas that which are generally not mandated by legislation, are significant for enterprises when it comes to ensuring good governance. ■■■

## Corporate Governance — Managing Companies through Crisis



Suhas Tuljapurkar

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*It has been proven that strong and experienced boards following well-defined processes and set protocols are better positioned to make quality decisions and help organisations to prosper. Organisations need to move ahead proactively with future in mind so as to maintain their position and sail through thick and thin and overcome challenges in a sustainable manner. It is almost a certainty that unless the agenda of the Board includes sustainability at all levels, the companies will just aspire to be the 'best' but not the 'next'. Being the best is not going to be enough because the focus of the company would always be on being the best. Not just being 'The Best', but 'The Next', ought to be the new mantra. Read on...*

### The King, the Queen & the Emperor

In January 1996, Bill Gates wrote "Content is King"<sup>1</sup>. He went on to add - "Content is where I expect much of the real money will be made on the internet, just as it was in broadcasting." In the grammar class, while teaching the difference between a proverb and an idiom, it was drilled in my head that 'God is in the Detail' is a proverb, 'Devil is in the Details' is an idiom. The proverb or the idiom, the importance of 'Details' became apparent and the both the God and the Devil moved from grammar to real- life situations. As a professional, the life taught us that the 'Money is in the

Details'. So, while 'Content is King', Profit became the Queen. Come COVID-19, we all learnt, understood, recognised, respected and bowed down to "Context is the Emperor".

The cardinal principle of 'Stakeholder at the Center' pivoted the stakeholder to the Kings' place. Long-term purpose of the business, together with short-term profits occupies the Queens' position. However, the issues such as risk and resilience have emerged and will continue to be the Emperor.

### The Black Elephant

The Indian companies seem to have realised that there are Black Elephants in the



<sup>1</sup> <https://www.craigbailey.net/content-is-king-by-bill-gates>

room today<sup>2</sup>. COVID-19 is an event that has redefined all relationships- business, family or social. It has once again taught the businesses that while the unplanned catastrophic events will strike them, preparing for these unplanned catastrophic events is only just one function relating to the risk. During the pandemic, business leaders have played a pivotal role in responding to the situation. Initially, the response was varied. Once the learnings pandemic improved, the responses were prioritised around—health, hygiene, social responsibility (proximate), social responsibility (general) and thereafter came the economic realities. While no one would have contemplated the pandemic, have the boards / business leaders now learned to plan for the catastrophic events? There is some criticism about the Directors' failure in identifying and dealing with the catastrophic events. Responding to 'unidentified catastrophic events', is predominantly a 'Risk' function. The Boards could have done better in mitigating risks arising from the unidentified catastrophic events. It is only now, after almost three quarters under lockdown, that the boards are focusing on developing resilience through governance.

## The Good and Not-So Good Leaders

During COVID-19, we experienced diametrically opposite leadership traits in India. Some of the remarkable corporate leaders acted responsibly towards the stakeholders<sup>3</sup>. The activities undertaken by the Indian companies include donating funds, providing hotel capacity as the quarantine centre, IMFL manufacturers producing alcohol-based sanitiser, opening kitchens to supply food to migrant workers, making information available at the COVID Information Resource Centre, providing free Risk Mitigation Software and Standard Operating Procedures, to name a few. Some of the very innovative leaders caused their businesses to quickly launch products, services and solutions that were complimentary to their businesses. Doing good towards society during these times also makes good business sense. Then there are those remarkable leaders who were bogged down by the Black Elephant, its uncertainties, pecuniary consequences and simply the enormity of it all. There are also those remarkable leaders who adopted the '*conserve-the-cash*' mantra and did not care for anything else. The second set of remarkable leaders did not

act so responsibly *qua* their stakeholders. These leaders will now force their stakeholders to forget them or remember them for wrong reasons. The stakeholders (the clients / customers, included) will not recall the brands led by the bogged-down, not-so good leaders. In this sense, the good and not-so-good leaders will be remarkable in their approach and will be remembered by the stakeholders for a long, long time. "*What did you do during the lockdown?*", is the question that will haunt many leaders for a long time to come.

## Corporate Governance in Crisis

There is enough empirical evidence to prove that good governance helps manage the companies through crisis<sup>4</sup>. Studies have shown that strong and experienced boards following clearly-defined protocols are better positioned to make good decisions. At a time when speed is of the essence, such as when a country is in the grips of open conflict, empowered boards and capable leaders can act quickly and decisively, sustaining the business, even in the midst of the worst.

One of our clients, a leading company in infection control solutions provider, who

<sup>2</sup> The coronavirus epidemic is not the proverbial 'elephant in the room'. It could, however, be called a 'black elephant' event. The environmentalist, Adam Sweidan, explained this idea to Thomas L. Friedman thus: "[It is] a cross between a 'black swan' — a rare, low-probability, unanticipated event with enormous ramifications — and 'the elephant in the room': a problem that is widely visible to everyone, yet that no one wants to address, even though we absolutely know that one day it will have vast, black-swan-like consequences." <https://corpgov.law.harvard.edu/2020/09/19/how-can-boards-prepare-for-unplanned-catastrophic-events/>

<sup>3</sup> 'Note regarding Positive Developments in the Industry During Lockdown'—Adv Dr Girish Bakshi, July 3, 2020.

<sup>4</sup> [https://www.ifc.org/wps/wcm/connect/14e8598c-83ed-44fc-b0d4-ed55641d0cf9/Strengthening\\_Governance\\_During\\_Crisis\\_Merima\\_Buzadzic.pdf?MOD=AJPERESE&CVID=m611pG2](https://www.ifc.org/wps/wcm/connect/14e8598c-83ed-44fc-b0d4-ed55641d0cf9/Strengthening_Governance_During_Crisis_Merima_Buzadzic.pdf?MOD=AJPERESE&CVID=m611pG2)

manufactures and supplies antiseptics, and disinfectants including surface disinfectants, has demonstrated remarkable resilience. The company has been manufacturing and supplying its products globally and has accreditation from various domestic and international certifying agencies. Even before COVID-19 was declared as a National Disaster under the Disaster Management Act 2005, the company entered into a rate contract for supply of disinfectants to the state-run hospitals. Infection control measures required that the COVID-19 hospitals do not turn into distribution hubs and that the doctors and healthcare specialists used proven products as per global standards.

When COVID-19 was declared as a National Disaster, firstly the export of some of the company's products were banned. Secondly, the decisions relating to the procurement of disinfectants suddenly shifted to the District Magistrates exercising powers under the Disaster Management Act, 2005. The funds available for the procurement of disinfectants came from the State Disaster Fund. From IMFL manufacturers to soap producers to specialty chemicals' company, everyone manufactured disinfectants and supplied it for free or at a marginal cost. Consequently, the company received cancellation of orders placed on it (including in a couple of instances after the disinfectants were supplied).

Based on the rate contract, the company had ramped up its manufacturing, on-boarded more employees and augmented its capacities.

Anybody would think that a disinfectant manufacturer would thrive during COVID-19 crisis. However, the company's exports stopped. Its local manufacturing stopped and within a matter of weeks, the company's survival became an issue. The leadership of the company demonstrated phenomenal resilience. Notwithstanding the travel ban, the company chartered an aircraft, flew its independent directors to the capital, dared to look into the eyes of the decision makers and convinced the opening of exports. India had exported sanitizers worth USD 485 million in 2018-19. However, on March 24, 2020 the Government prohibited exports of sanitisers (both alcohols based and non-alcohol based). On May 6, 2020 the government lifted ban on the export of non-alcoholic sanitizers, but prohibited exports of alcohol-based sanitizers to boost its availability in the domestic market. Later on June 2, 2020 the Directorate General of Foreign Trade (DGFT) banned export of alcohol-based hand sanitisers in containers with dispenser pump. Recently, on October 15, 2020 export of alcohol-based hand sanitisers in container with dispenser pumps also became free.

During this period, the company faced many challenges and resisted temptations. As always,

some touts came forward with a proposal of managing procurements through the District Magistrates. Following the success of public interest litigation (PIL) on PPE kits quality issues, some NGOs came forward to solve the problem through the same platform of filing PILs. The Board also valued the option of solving the problem through litigation.

The company's leadership demonstrated that it can use independent directors as the resources of the company. They ensured that questionable practices were not encouraged, and discouraged any unnecessary interference. They did not talk of shutting down, locking-out, furlough or the like. The leadership, through its commitment to good corporate governance, strengthened rebuilding of the company. They eliminated the risk on unnecessary interference by removing hindrances that could have prevented them from '*being good*'. They also paved a way to remove questionable practices. Good governance during the crisis and emergencies sends a very powerful message for rebuilding. Everyone at the Board is often vehemently arguing for rebuilding the business with a longer-term perspective in mind.

### Short-Termism

'Short-Termism'<sup>5</sup> as a noun finds place in almost all modern dictionaries. As the COVID-19 crisis has moved beyond two

<sup>5</sup> Defined as 'a way of thinking or planning that only considers the advantages or profits you could have now, rather than the effects in the future' <https://www.oxfordlearnersdictionaries.com/definition/english/short-termism>



Good governance during the crisis and emergencies sends a very powerful message for rebuilding. Everyone at the Board is often vehemently arguing for rebuilding the business with a longer-term perspective in mind.

quarters, everyone expects that the quarterly reports for a few quarters to come will demonstrate the consequences of this pandemic. In this context, it is interesting to read extracts from the relevant reports:

- Studies have identified that there can be soft and hard approaches as possible solutions. Soft approach will entail spreading awareness on sustainable corporate governance practices or fostering regulatory initiatives through recommendations. Hard approach will involve setting minimum common rules to enhance long-term through legislative interventions.
- A September 2020 Position Paper<sup>6</sup> makes out a very strong case to revisit the nature of short-termism.

The paper is not the sole proponent of need for the balancing act. It articulates: *“Covid-19 pandemic shut down most of the global economy in 2020. This event humbly reminded us that sometimes long-term planning cannot take place until short-term survival is ensured. Investors prefer companies managing and investing for the long term, but they have to understand that companies need to strike a balance between short-term operations and long-term planning. In some instances — such as most of 2020 — the short term can and should take precedence.”*

Notwithstanding the conundrum regarding the ‘quarterly reporting’ (and each such quarterly report taking into consideration Regulation 30 of SEBI (Listing Obligations and Disclosure Requirements), 2015 with respect to the COVID impact) most of the Statutory Auditors are advising, and the boards are readily accepting, a medium-term to long-term outlook supported by the weeding out of all the old questionable accounting practices, qualifications and the like. While very few rogues will try to hide things under the pretext of the pandemic, most of the sensible leaders have embarked upon ironing

their accounting practices and revisiting their policies and practices amidst conversations of resetting by businesses.

*Reference:* The Development Committee of the International Monetary Fund, a ministerial-level forum that represents 189 member countries of the World Bank Group and the International Monetary Fund, on October 16, 2020 issued a statement after the online annual meeting.<sup>7</sup> World Bank Group President David Malpass remarked that the pandemic *“could lead to a lost decade characterized by weak growth, a collapse in many health and education systems, and a new round of sovereign-debt crises.”* Every discussion about the role of directors in current context is focusing on the ‘Re’ factors. Building resilience, no doubt appeared as the most prominent agenda.<sup>8</sup> Use of ‘Re’ has been revisited during the pandemic. The speed with which Mother Earth repaired itself startled many scientists, leading to the formation of a firm belief that the war against climate change is not lost. The corporate leaders used ‘Re’ more often than any other prefix. Reimagine, Rethink, Reinvent, Recalibrate, Redesign, Reengineer, Restructure, Revive, Repair, Rebuild, Reset, Restore.... The Re-factor strongly led to redefining Corporate Governance and its relevancy. In most of the

<sup>6</sup> <https://www.cfainstitute.org/-/media/documents/article/position-paper/Short-termism-revisited.ashx>

<sup>7</sup> [https://www.worldbank.org/en/news/feature/2020/10/16/laying-the-foundations-for-a-resilient-recovery?cid=ECR\\_E\\_newsletterweekly\\_EN\\_EXT\\_AM2020&deliveryName=FCP\\_6\\_DM81624](https://www.worldbank.org/en/news/feature/2020/10/16/laying-the-foundations-for-a-resilient-recovery?cid=ECR_E_newsletterweekly_EN_EXT_AM2020&deliveryName=FCP_6_DM81624)

<sup>8</sup> <https://corpgov.law.harvard.edu/2020/09/19/how-can-boards-prepare-for-unplanned-catastrophic-events>

companies, the divide between the board and the management blurred, and everyone was united in the face of the catastrophe. ‘Resilient Recovery’ has been the catchword that described the optimism at the Boards. It is interesting to draw a parallel with ‘Surmounting Setbacks’ that was articulated by the World Bank on October 17, 2020 i.e., End Poverty Day. As the World Bank Group President, Mr. David Malpass said *“Even in the midst of a once-in-a-century crisis, I have confidence that sustainable solutions will emerge, in part by embracing constructive change.”* He expanded on this vision: *“Working together, I believe that we can shorten the downturn and build a strong foundation for a more durable model of prosperity: one that can lift all countries and all people.”* It may not be out of place to mention ten tenets articulated by Dr. R. A. Mashelkar in the context of building resilience during crisis. This definitely is the agenda for all boards of the companies.

## 10 Tenets to become Crisis Resilient

-Dr. R. A. Mashelkar

1. Adaptability
2. Agility
3. Resilience Thinking
4. Scenario Based Planning
5. Purpose-Driven
6. Platformisation
7. Digital Ready
8. Foster Self-Disruption
9. Climate Conscious
10. Autonomous Innovation



## Board Agenda, ATRs and Impact

The once-in-a-century crisis has also catapulted hopes for once-in-a-lifetime opportunity. Sustainability solutions are already an emerging trend. During the pandemic while stock exchanges were trading, almost every other investment opportunity was absent, investors supported those companies that demonstrated responsible behavior, exhibited resilience and embraced these sustainability solutions. Whether in development of AI, moving from thermal to renewable, designing a new packaging label and evaluating entire supply chain, business ethics now play a major role in shaping the future of business. The Triple Bottomline, Environmental Social and Corporate Governance, Corporate Sustainability, Business Responsibilities no longer remain mere buzzwords at conferences and workshops, or even simply a part of shiny financial statements and photo ops. The agenda of sustainability has now moved from the conferences and workshops in luxurious hotels to

their rightful place i.e., the Board Rooms. The boards will have to drive the agenda of sustainability, not just from the point of view of Sustainable Development Goals, Corporate Social Responsibility, or Global Reporting Initiatives but by measures such as inculcating compassion, by adopting Green Chemistry and by embracing the fundamentals of Circular Economy. The board's agenda items now ought to include Green Chemistry, Circular Economy, Corporate Compassion and Innovation. Each of these items will now be elements to be tracked as part of the Board's Action Taken Report. The performance of the board will now be evaluated based on its measurable impact on these parameters.



The board's agenda items now ought to include Green Chemistry, Circular Economy, Corporate Compassion and Innovation.

<sup>9</sup> <https://live.worldbank.org/end-poverty-day-2020>

### Good to Great

It is an inescapable conclusion that if the company aspires to move from being good to becoming great, the DNA of the organisation will have to be formed based on sustainability. As we know by now, if there is deformity in the DNA, there is recombinant DNA technology to solve the problem. There is no better time than now for companies to undertake the genetic reengineering of its DNA so that the organisational culture is reset correctly. World Economic Forum's COVID-19 Risks Outlook<sup>10</sup> published in May, 2020 outlines that “Despite the grim economic outlook, the solidarity created by the COVID-19 pandemic offers the possibility of investing in building more cohesive, inclusive and equal societies. When it comes to the environmental agenda, the implementation of green stimulus

*programmes holds the potential to fundamentally change the way economies and industries operate, especially as societal behaviour change may spur more sustainable consumption and mobility habits. For businesses, the opportunity exists to accelerate a transformation towards more sustainable and digital operating models, while enhancing productivity. When it comes to the Fourth Industrial Revolution, technology has demonstrably helped societies manage the crisis and provided a window into the benefits of more technology-enhanced ways of learning, working and producing – from telemedicine to logistics to the knowledge economy. There is potential for a new era of innovation, growth and enhanced technology governance in the service of societal and environmental goals.”*

It almost imperative that unless the board's agenda includes



Being the best is not going to be enough because the focus of the company would always be on being the best, albeit ‘in-time’. Not Just Being ‘The Best’ but ‘The Next’ ought to be the new mantra.

sustainability at all levels, the companies will just aspire to be the ‘best’ but not the ‘next’. Being the best is not going to be enough because the focus of the company would always be on being the best albeit ‘in-time’. Not just being ‘The Best’, but ‘The Next’, ought to be the new mantra. ■■■



<sup>10</sup> [http://www3.weforum.org/docs/WEF\\_COVID\\_19\\_Risks\\_Outlook\\_Special\\_Edition\\_Pages.pdf](http://www3.weforum.org/docs/WEF_COVID_19_Risks_Outlook_Special_Edition_Pages.pdf)

## Journey of Corporate Governance

*Corporate form of organisation has enabled creation of large organisations with substantial amount of capital and specialist managers run them to achieve their objectives. Corporate governance refers to the mechanisms, processes and relations by which corporations are managed to achieve their objectives. Governance identifies the distribution of rights and responsibilities among different participants in the corporation and includes the rules and procedures for making decisions in corporate affairs. Read on...*



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### Foreward

1. Advent of corporate form of organisation has enabled global size enterprises to come into being. This became the only form of organisation that can augment large amount of capital and specialist managers to propel the business vessel in the turbulent waters to a safe destination of slated stakeholder goals.
2. However, separation of ownership and management has thrown open certain challenges. Owners i.e. shareholders and management can have different interests.
3. Stakeholders are saviour for business, as is witnessed by times. Therefore, in this sense, the corporate

The shareholders desire enlargement of returns on their capital contribution through more profits and more dividends, while management may also be guided by other objectives like, higher remuneration conserving cashflows to minimise cost of borrowings or invest in securities to increase returns at corporate level. Corporate governance aims at adoption of set of practices that harmonise interests of the management with those of the owners.



governance has to embrace stakeholders' interests. Stakeholders are people interested in your company, ranging from employees to loyal customers and investors to government to general public, communities, activist groups, business support groups, and the media and so on. They broaden the pool of people who care about the well-being of the company, making it less alone in its entrepreneurial work. In current day theory, an enterprise with an engaged community of stakeholders reaps financial benefits from these relationships. At its best, the relationship between a business and its stakeholders is symbiotic and healthy. This is the current date encompass of corporate governance.

## US Experience

4. US Stock market took biting on account of misreported annual accounts. Story of Enron Corporation presents a case that a Company reached dramatic heights only to face a dizzying fall. The fated company's collapse affected thousands of employees and shook Wall Street to its core. At Enron's peak, its shares were worth \$90.75; just prior to declaring bankruptcy on Dec. 2, 2001, they were trading at \$0.26. Enron was able to keep hundreds of millions worth of debt off its books. The shell companies,

run by Enron executives, recorded fictitious revenues, essentially recording one dollar of revenue, multiple times. This practice created the appearance of incredible earnings figures.

5. The WorldCom, the USA's second largest long-distance telephone company at the relevant time. From 1999 to 2002, senior executives at WorldCom orchestrated a scheme to inflate earnings in order to maintain WorldCom's stock price. The fraud was uncovered in June 2002. Eventually, WorldCom was forced to admit that it had overstated its assets by over \$11 billion. At the time, it was the largest accounting fraud in American history.
6. The reaction at US had been the Sarbanes-Oxley Act is said to have passed due to scandals such as WorldCom and Enron. This is a significant march forward towards embracing corporate governance, more emphatically, more visibly.

## Other Stories

7. Bre-X Minerals, the Canadian company was involved in one of the largest stock swindles in history. Its Indonesian gold property, which was reported to contain more than 200 million ounces, was considered as the richest gold mine. The stock price skyrocketed to a high of \$280 and at its peak, Bre-X had a
8. HIH Insurance had been second-largest insurance company in Australia. It was placed into provisional liquidation in March, 2001. Liquidation of HIH is the largest corporate collapse in Australia, where liquidators estimate HIH's losses totalled up to A\$ 5.3 billion. Investigations into the cause of the collapse resulted in to conviction and imprisonment of a handful of members of HIH management on various charges relating to fraud.
9. In United Kingdom wallpaper brand Coloroll was owned by CWV Ltd. Developed from a family-owned wallpaper company founded in the 1970s, during the 1980s Coloroll Group became a dominant publicly listed home furnishings business, which collapsed in 1990 through excessive debt.
10. Polly Peck International (PPI) was a small British textile company which expanded rapidly in the 1980s and became a constituent of the FTSE 100 Index before collapsing in 1991 with debts of £1.3bn, eventually leading to the

market capitalization of \$4.4 billion. The party ended in 1997, when the gold mine proved to be fraudulent, and the stock tumbled to pennies shortly after.

flight of its CEO, Asil Nadir to Northern Cyprus in 1993.

11. Polly Peck was one of several corporate scandals that led to the reform of UK company law, resulting in the early versions of the UK Corporate Governance Code.

## India Developments

12. In India, dodging tax laws and underreporting revenue is noticed on various occasions and has been brought to surface by tax departments. This has impacted shareholders wealth and stakeholder interests.
13. The biggest ever corporate scandal in India took place from one of the then most respected Corporate entity, Satyam. The Satyam founder and chairman confessed to SEBI of the manipulation done by him in the accounts of the Company. This corporate scam was carried on from 2003 till 2008. It is estimated that the fraud took place for around Rs five thousand crores of cash and bank balances as the company by falsifying revenues, margins. The stock price of Satyam fell drastically after this incident. Eventually, CBI took charge of conducting the investigation into the matter.
14. Earlier, there was a Bhansali scam. It resulted in a loss

of over ₹ 1,200 crore (₹ 12 billion). He first launched the finance company CRB Capital Markets, followed by CRB Mutual Fund and CRB Share Custodial Services. He ruled like a financial wizard 1992 to 1996. The Group collecting money from the public through FDs, bonds and debentures, which money was transferred to companies that never existed. CRB Capital Markets raised a whopping ₹ 176 crore in three years. In 1994 CRB Mutual Funds raised ₹ 230 crore and ₹ 180 crore came via fixed deposits. Group also succeeded to raise about ₹ 900 crore from the markets. However, his good days did not last long, after 1995 he received several jolts. Bhansali tried borrowing more money from the market. This led to a financial crisis. It became difficult for Bhansali to sustain himself. The Reserve Bank of India (RBI) refused banking status to CRB and he was in the dock.

15. There were other numerous scams in securities market, in India. As a consolidated effect of the same, the corporate governance model got evolved in India over the period.
16. *The Godfather* is a celebrated crime novel. The novel's epigraph is: «Behind every great fortune there is a crime.» In a similar manner, it is noticed that

“Behind every development in corporate governance there is a scam.”

## Corporate Governance

17. Corporate governance broadly refers to the mechanisms, processes and relations by which corporations are controlled and directed. Governance structure identifies the distribution of rights and responsibilities among different participants in the corporation such as the board of directors, managers, shareholders, creditors, auditors, regulators, and other stakeholders and includes the rules and procedures for making decisions in corporate affairs. Corporate governance includes the processes through which corporations' objectives are set and pursued in the context of the social, regulatory and market environment. Governance mechanisms include monitoring the actions, policies and decisions of corporations and their agents. Corporate governance practices are affected by attempts to align the interests of stakeholders.
18. The report of various committees helped a lot to streamline the corporate throughout the world. Some important Committees on governance is given under the following list:

| S. No. | Committee            | Country      | Year        |
|--------|----------------------|--------------|-------------|
| 1      | Cadbury              | England      | 1992        |
| 2      | King Committee       | South Africa | 1994 & 2002 |
| 3      | CII                  | India        | 1996        |
| 4      | Hampel               | England      | 1998        |
| 5      | Kumar Mangalam Birla | India        | 2000        |
| 6      | SEBI                 | India        | 2000        |
| 7      | Narayana Murty       | India        | 2003        |
| 8      | Uday Kotak           | India        | 2017        |

## Cadbury Report

19. “The Committee on the Financial Aspects of Corporate Governance” chaired by Adrian Cadbury has made recommendations on arrangement of company boards and accounting systems to mitigate corporate governance risks and failures. The voluntary code of the Committee Report, the Cadbury Code, recommends:

- (i) The majority of the Board be comprised of outside directors.



Governance mechanisms include monitoring the actions, policies and decisions of corporations and their agents. Corporate governance practices are affected by attempts to align the interests of stakeholders.

(ii) The boards of all listed companies registered in the UK should comply with the Code of Best Practice set out in the Report.

(iii) The board should meet regularly, retain full and effective control over the company and monitor the executive management.

(iv) The directors should explain their responsibility for preparing the accounts next to a statement by the auditors about their reporting responsibilities.

(v) The directors should report on the effectiveness of the company's system of internal control and report that the business is a going concern.

(vi) It is the board's duty to present a balanced and understandable assessment of the company's position.

(vii) The Institutional Shareholders'

Committee (ISC) to represent the overwhelming majority of institutional shareholders in the UK. The ISC provides a channel of communication and forum for discussion between institutional shareholders, corporate management and others on wider issues

(viii) The explanation of directors' responsibilities will require a relatively formal statement, which should cover the following points:

(ix) all listed companies which have not already done so should establish an audit committee, and places great emphasis on the importance of properly constituted audit committees in raising standards of corporate governance.

(x) The statutory responsibilities of directors and auditors relating to accounts and audit are laid down

(xi) There be a clear division of responsibilities at the top, primarily that the position of Chairman of the Board be separated from that of Chief Executive, or that there be a strong independent element on the board;

(xii) Remuneration committees for Board members be made up in

the majority of non-executive directors; and

- (xiii) that the Board should appoint an Audit Committee including at least three non-executive directors.

20. The provisions of the Code were given statutory authority to the extent that the London Stock Exchange required listed companies to 'comply or explain'; that is, to enumerate to what extent they conform to the Code and, where they do not, state exactly to what degree and why.

## King Committee

21. In South Africa, the 'King Report on Corporate Governance' presents guidelines for the governance structures and operation of companies. This Report has been cited as "the most effective summary of the best international practices in corporate governance". Four reports have been published in a series.

22. The key principles from the first King report covered:

- (i) Board composition and mandate, including the role of non-executive directors and guidance on the categories of people who should make up the non-executive directors
- (ii) Appointments to the board and guidance on the maximum term for executive directors

- (iii) Determination and disclosure of executive and non-executive director's remuneration

- (iv) Board meeting frequency

- (v) Balanced annual reporting

- (vi) The requirement for effective auditing

- (vii) Affirmative action programs

- (viii) The company's code of ethics

23. The key principles from the first King report covered:

- (i) Board of directors' makeup and mandate, including the role of non-executive directors and guidance on the categories of people who should make up the non-executive directors

- (ii) Appointments to the board and guidance on the maximum term for executive directors

- (iii) Determination and disclosure of executive and non-executive director's remuneration

- (iv) Board meeting frequency

- (v) Balanced annual reporting

- (vi) The requirement for effective auditing

- (vii) Affirmative action programs

- (viii) The company's code of ethics

24. King III is made applicable to all entities including, public, private and non-profit. The report incorporated a number of global emerging governance trends:

- (i) Alternative dispute resolution
- (ii) Risk-based internal audit
- (iii) Shareholder approval of non-executive directors' remuneration
- (iv) Evaluation of board and directors' performance

25. King IV assumes application of all principles, and requires entities to explain how the principles are applied – thus, apply and explain. King IV is principle- and outcomes-based rather than rules-based. It states that corporate governance should be concerned with ethical leadership, attitude, mindset and behaviour. Transparency is the hallmark. Well-considered disclosures are recommended. More prominence is on payment of remuneration, which is in line with international developments. It recognises information in isolation of technology as a corporate asset that is part of the company's stock of intellectual capital and confirms the need for governance structures to protect and enhance this asset. There is a new

emphasis on the roles and responsibilities of stakeholders

## CII

26. In 1996, CII under initiative on Corporate Governance constituted National Task Force Chaired by Rahul Bajaj, with an objective was to develop and promote a code for Corporate Governance to be adopted and followed by Indian companies, be these in the Private or Public Sector, Banks or Financial Institutions. The Task Force presented the draft guidelines and the code of Corporate Governance in April 1997.
27. The Committee noted that Corporate governance deals with laws, procedures, practices and implicit rules that determine a company's ability to take managerial decisions vis-à-vis its claimants—in particular, its shareholders, creditors, customers, the State and employees. A Desirable Code of Corporate Governance was published by the Committee.
28. Desirable Code of Corporate Governance, inter alia, provided for:



Transparency is the hallmark. Well-considered disclosures are recommended.

- (ix) In case of listed company with turnover exceeding Rs.100 crores, independent directors should consist of: (a). 30% if Chairman is non-executive director; (b).50% if Chairman & MD is the same person.
- (x) No single person should hold directorships in more than 10 listed companies.
- (xi) Non-executive directors should be competent and active.
- (xii) Commission not exceeding 1% (3%) of net profits for a company with (out) a MD.
- (xiii) Attendance record of directors should be made explicit at the time of reappointment; less than 50% no re-appointment.
- (xiv) Key information that must be reported to and placed before the board.
- (xv) Large listed companies should have an audit committee.
- (xvi) Compliance certificate signed by CEO & CFO

## Hampel

29. The Committee's agenda was to "promote high standards of corporate governance in the interests of investor protection and in order to preserve and enhance the standing of companies listed on the [London] Stock Exchange".

A In the Report, the Committee indicated its intention to produce a document containing a set of principles of corporate governance, and (ii) a code of good corporate governance practice – consisting of a combination of the Cadbury and Greenbury Codes and some Hampel Committee recommendations. The intention is that the current listing rules, which require listed UK companies to confirm their compliance with – and explain any non-conformance with – the Cadbury and Greenbury Codes, will be replaced by a rule requiring companies to disclose how they:

- apply the principles of corporate governance; and
- comply with the combined code including a requirement to justify any significant variances.

30. The Report suggested that companies should be required to include a narrative statement of how they apply a set of principles of corporate governance. The principles set out in the Report are about directors, *Directors' Remuneration, Shareholders and accountability and audit.*

## Kumar Mangalam Birla

31. In early 1999, Securities and Exchange Board of

India (SEBI) had set up a committee under Shri Kumar Mangalam Birla, member SEBI Board, to promote and raise the standards of good corporate governance. The report submitted by the committee is the first formal and comprehensive attempt to evolve a 'Code of Corporate Governance', in the context of prevailing conditions of governance in Indian companies, as well as the state of capital markets.

32. The committee divided the recommendations into two categories, namely, mandatory and non-mandatory. The recommendations which are absolutely essential for corporate governance can be defined with precision and which can be enforced through the amendment of the listing agreement could be classified as mandatory.

33. Mandatory Recommendations include:

- (i) Composition of Board Of Directors – Optimum Combination Of Executive & Non-Executive Directors
- (ii) Audit committee – with 3 independent directors with one having financial and accounting knowledge.
- (iii) Remuneration committee be constituted
- (iv) Board procedures – at least 4 meetings of the board in a year

with maximum gap of four months between two meetings. To review operational plans, capital budgets, quarterly results, minutes of committee's meeting, etc.

- (v) Director shall not be member of more than ten committee and shall not act as chairman of more than five committees across all companies
  - (vi) Management discussion and analysis report covering industry structure, opportunities, threats, risks, outlook, internal control system
  - (vii) Information sharing with shareholders
34. Other recommendations include:
- (i) Role of Chairman
  - (ii) Remuneration Committee of Board
  - (iii) Shareholders' right for receiving half yearly financial performance postal Ballot
  - (iv) Covering Critical Matters Like Alteration in Memorandum Etc.
  - (v) Sale of Whole or Substantial Part of The Undertaking
  - (vi) Corporate Restructuring
  - (vii) Further Issue of Capital
  - (viii) Venturing in to New Businesses

## Naresh Chandra Committee

35. The Ministry of Corporate Affairs had appointed a high-level committee in August 2002 to examine various corporate governance issues. The Committee's recommendations relate to:

- (i) Disqualifications for audit assignments;
- (ii) List of prohibited non-audit services;
- (iii) Independence Standards for Consulting, Other Entities that are Affiliated to Audit Firms;
- (iv) Compulsory Audit Partner Rotation;
- (v) Auditor's disclosure of contingent liabilities;
- (vi) Auditor's disclosure of qualifications and consequent action;
- (vii) Management's certification in the event of auditor's replacement;
- (viii) Auditor's annual certification of independence;
- (ix) Appointment of auditors;
- (x) Setting up of Independent Quality Review Board;
- (xi) Proposed disciplinary mechanism for auditors;

(xii) Defining an independent director;

(xiii) Percentage of independent directors;

(xiv) Minimum board size of listed companies;

36. In conclusion, one can state that the Committee has observed “Good corporate governance involves a commitment of a company to run its businesses in a legal, ethical and transparent manner - a dedication that must come from the very top and permeate throughout the organisation. That being so, much of what constitutes good corporate governance has to be voluntary. Law and regulations can, at best, define the basic framework - boundary conditions that cannot be crossed.”

## SEBI

37. Securities and Exchange Board of India (SEBI) was established in 1992 under an Act of Parliament. It monitors and regulates corporate governance of listed companies in India through Clause 49 of the Listing Agreement. This clause is incorporated in the listing agreement of stock exchanges and it is compulsory for them to comply with its provisions. It was first introduced in the financial year 2000-01 based on the recommendations of Kumar Mangalam Birla committee.

38. As a major step towards codifying the corporate governance norms, SEBI enshrined the Clause 49 in the Equity Listing Agreement (2000). In India, this clause serves as a standard of corporate governance. The clause requires that half the directors on a listed company's board must be Independent Directors. In the same clause, the SEBI had put forward the responsibilities of the Audit Committee, which was to have a majority Independent Directors.

39. Clause 49 of the Listing Agreement is applicable to companies which wish to get themselves listed in the stock exchanges. This clause has both mandatory and non-mandatory provisions. Key Mandatory provisions are as follows:

- (i) Composition of Board and its procedure – frequency of meeting, number of independent directors, code of conduct for Board of directors and senior management;
- (ii) Audit Committee, its composition, and role
- (iii) Provision relating to Subsidiary Companies
- (iv) Disclosure to Audit committee, Board and the Shareholders
- (v) CEO/CFO certification
- (vi) Quarterly report on corporate governance

(vii) Annual compliance certificate

In 2014, the clause 49 was amended to include Whistle-blower policy as mandatory provision

40. Key Non-mandatory provisions include the following:

- (i) Constitution of Remuneration Committee
- (ii) Training of Board members
- (iii) Peer evaluation of Board members

41. After the Satyam Scandal, SEBI became more and more strict towards disclosure norms and implementation of Clause 49 provisions to bring about sea changes in transparency and accountability in the country. The Companies Act gave these norms a proper statutory backing.

## Narayan Murthy

42. SEBI, subsequently constituted a Committee on Corporate Governance in 2002, in order to evaluate the adequacy of existing corporate governance practices and further improve these practices. It was under the Chairmanship of Shri N. R. Narayana Murthy,

43. The Committee was set up to review Clause 49, and suggest measures to improve corporate governance standards.

# Corporate Governance

44. Major mandatory recommendations focused on:

- (i) Strengthening the responsibilities of audit committees;
- (ii) Improving the quality of financial disclosures, including those related to related party transactions and proceeds from initial public offerings;
- (iii) Requiring corporate executive boards to assess and disclose business risks in the annual reports of companies;
- (iv) Introducing responsibilities on boards to adopt formal codes of conduct; the position of nominee directors;
- (v) Stock holder approval and improved disclosures relating to compensation paid to nonexecutive directors.
- (vi) Non-mandatory recommendations included:
- (vii) Moving to a regime where corporate financial statements are not qualified;
- (viii) Instituting a system of training of board members; and
- (ix) Evaluation of performance of board members.

45. These recommendations codify certain standards of

'good governance' into specific requirements, since certain corporate responsibilities are too important to be left to loose concepts of fiduciary responsibility. Their implementation through SEBI's regulatory framework can strengthen existing governance practices and will provide a strong incentive to avoid corporate failures. The Committee noted that the recommendations contained in their report can be implemented by means of an amendment to the Listing Agreement, with changes made to the existing clause 49.

## Uday Kotak Committee

46. One more Committee on corporate governance was formed by SEBI in 2017 under the Chairmanship of Mr. Uday Kotak. The aim was of improving standards of corporate governance of listed companies in India. A good number of recommendations have been accepted and implemented by SEBI.

47. Major suggestions can be summarised here. On composition and role of the board of directors, the Committee was of the view that the board of directors as a whole is responsible to all stakeholders for meeting the requisite standards of corporate governance in a company. Accordingly, the Committee sought to address the issues *inter alia* relating to strength of the board, its diversity, issues pertaining to independent directors and disclosure of skills / expertise of the board members.

48. Other recommendations include:

- (i) The institution of independent directors is essential to a good corporate governance framework as they are expected to bring objectivity into the functioning of the board and improve its effectiveness.
- (ii) Delegation of responsibilities to committees of the board is necessary for the effective governance of listed entities given the broad range of roles and responsibilities of the board. Committee's recommendations addressed issues pertaining to representations in the board committees, setting minimum number of meetings and quorum for each such committee and increase in the number and nature of board committees.
- (iii) Enhanced monitoring of group entities.
- (iv) To strengthen transparency on related party transactions, new regulation suggested.
- (v) Increased and better participation by investors will enhance good governance. Removing



SEBI's regulatory framework can strengthen existing governance practices and will provide a strong incentive to avoid corporate failures.

the boundaries of physical meetings and adopting the use of technology.

49. The Kotak Committee recommendations addressed certain core issues in relation to corporate governance. These recommendations are in line with the global practices and amendments made to the SEBI LODR Regulations are a step forward in terms of achieving transparency and credibility in the corporate environment altogether.

## Companies Act

50. The Companies Act, 2013 also came up with a dedicated chapter on Corporate Governance. Under this law, various provisions have been enacted under at least eleven heads viz. Composition of the Board, Woman Director, Independent Directors, Directors Training and Evaluation, Audit Committee, Nomination and Remuneration Committee, Subsidiary Companies, Internal Audit, SFIO, Risk Management Committee and Compliance to provide a rock-solid framework around Corporate Governance.
51. Making accounting standards for corporates and standards on auditing for company auditors issued by the ICAI mandatory is one singular step that has significantly contributed to the field of corporate governance. These provisions lead to transparent and comparable financial statements to be laid on the table.
52. In Companies Act, 2013 there are the important provisions under the Companies Act,

2013 (the new Act) and the Rules framed thereunder to further strengthen corporate governance.

53. Composition of the Board of Directors [Sections 149, 151]:

Minimum number of directors has been prescribed, every company shall have maximum 15 directors, for appointment of more than 15 directors after passing a special resolution, requirement to have at least one director who has stayed in India for a total period of not less than 182 days in the previous calendar year.

Every listed company and large public companies are required to have at least one-third of total number of directors as independent directors. Any intermittent vacancy of an Independent Director is required to be filled up at the earliest.

Listed company and large public companies are required to appoint at least one wholetime director, a woman director.

- i. **Concept of Independent Directors (Section 149 and 150):** The Concept of Independent Directors has been introduced for the first time in Company Law. The Act says that an independent director must be “a person of integrity and possess the relevant expertise and experience” in the opinion of the board.

Every listed company is required to have at least 1/3<sup>rd</sup> independent directors on its

board. The term for appointment of independent directors has also been prescribed with a view to maintain independence. Independent directors shall hold office for a term up to five consecutive years and which shall not exceed for more than two consecutive terms. He is eligible for appointment in same company after cooling period of three years. Also, the company and the independent directors shall abide by the provisions of (Code of Conduct) specified in Schedule IV of the Act. The Central Government is also vested with the power to prescribe qualifications for IDs. The Act contemplates the institution of a data bank of IDs, from which persons may be chosen by companies.

- ii. **Limit on Directors of a Company:** The maximum limit of directors in the Company has been increased to 15 from 12 as per Companies Act 1956 with a power to add more directors upon passing of Special Resolution. (Section 149 (1))
- iii. **Restriction on number of directorship a person can hold:** A person cannot become director in more than 20 companies as against 15 in Companies Act 1956 and out of this 20, he cannot be director of more than 10 public companies. (Section 165)

**iv. Requirement of Woman Director:**

In prescribed class or classes of companies, there should be at least 1 woman director. (Section 149)

**v. Concept of CSR**

**(Section 135):** As per the Act, every company having net worth of Rs. 500 crore or more or turnover of Rs. 1000 crore or more or net profit of Rs. 5 crore or more during the immediately preceding financial year is required to have a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director for companies. The Committee to formulate and recommend to the Board, a Corporate Social Responsibility Policy:

- indicating the activities to be undertaken by the Company; and
- recommending the amount of expenditure to be incurred on the activities.

Also, the Board is required to ensure that at least 2% of average net profits may during 3 immediately preceding years spent every year on CSR and in the event of failure, Board to specify the reasons for not spending the amount, in its report made under Section 134(3).

**vi. Appointment of Internal Auditor**

**(Section 138):** Class of

companies as may be prescribed is required to appoint an internal auditor to conduct internal audit of the books of company. Internal Auditor shall be a Chartered Accountant or Cost Accountant or such other professional as may be decided by Board.

**vii. E-Governance**

**Initiatives:** In order to give importance to Green initiatives and to make paperless office, E-Governance has been proposed for various company processes like maintenance and inspection of documents in electronic form, option of keeping of books of accounts in electronic form, circulation of financial statements electronically and to place on company's website, holding of board meetings through video conferencing/ other electronic mode; voting through electronic means, permission to pay dividend electronically.

**viii. Board's Report**

**(Section 134):** The Board's report for every company except for One Person Company, shall have provide various types of additional information like details of web link, number of meetings of the Board, Company's policy on directors' appointment and remuneration; explanations or comments by the Board on every qualification, reservation or adverse remark or

disclaimer made by the Company Secretary in his secretarial audit report, particulars of loans, guarantees or investments etc.

The Directors Responsibility Statement in case of listed company shall also include additional statement related to internal finance control and compliance of all applicable laws.

The Report of the Board of Directors is required to include a DRS on the aspects of applicable accounting standards compliance, accounting policies as selected are consistently applied and judgments and estimates are made in a reasonable and prudent manner to ensure true and fair view of the state of affairs at the end of financial year and of the profit or loss for that period, maintenance of adequate accounting records, annual accounts prepared on a Going Concern basis, ensure compliance with the provisions of all applicable laws, etc.

(i)

(ii)

**ix.** In case of a listed company and every large public company the Board Report to include, inter alia, a statement indicating the manner in which formal annual evaluation has been made by the Board of its own performance and that of its committees and individual directors.

**x.** The Act has codified duties of the directors as given below:

- a) To act in accordance with the articles of the company
- b) To act in good faith, promote

the corporate objects and in the best interests of all stakeholders, community, environment

- c) Act with due and reasonable care, skill and diligence
- d) No direct or indirect conflict of interest
- e) Not to assign director's office
- xi.** Code on independent directors, remuneration to directors, etc. And such other disclosure provisions have also been made.
- xii.** Investor Protection measures

To give more protection to the money invested by the investors, the concept of class action suits has been introduced, penalty and punishment has been widened. A **suit may be filed by a person who is affected by any misleading statement** or the inclusion or omission of any matter in the Prospectus or who has invested money by fraudulent inducement.

Also an exit opportunity to dissenting shareholders on variation in terms of contract or objects in a prospectus is permitted i.e., in cases where 90% or more of the equity shareholding in a company is acquired by any person or group of persons, such a group is obliged to make an offer to buy out the shares held by the minority shareholders.

(iii)

- 54. It is evident from provisions of the Companies Act, 2013 that much emphasis has been placed on ensuring greater corporate governance and reporting thereon.

## Audit

- 55. The Ministry of Corporate Affairs constituted a committee for Recommendations on Regulating Audit Firms and the Networks. The Committee has released its Findings and Recommendations. It states that auditors are to resolve agency problems. Moreover, independent audits are fundamental to taking informed and correct investment decisions. Availability of trustworthy financial information on the performance of companies is important to proper functioning of market economy. Serious concerns arise if auditors' independence is compromised or the trust reposed on them is betrayed.
- 56. The MCA is making consistent efforts for contributing and enhancing corporate governance.

## Way Forward

- 57. The future of corporate governance hinges on stakeholder behaviour and regulatory responses. The managements will yield to stakeholder pressure only when non-compliant entities are ridiculed in business and compelled to trade the path of rectitude.
- 58. In this sense, corporate governance should become



Moreover, independent audits are fundamental to taking informed and correct investment decisions. Availability of trustworthy financial information on the performance of companies is important to proper functioning of market economy.

more a habit than regulatory compliance reaction. When this happens, the Companies will strive for excellence in corporate governance. This will happen only when the market recognises value of good corporate behaviour and accord premium therefor, not as a cost, but as a contribution. ■■■

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# Social Stock Exchange - A Lifeline for Social Enterprises

*Traditional businesses are embracing sustainability for innovation, returns, and sustainable impact. At the same time, the broader objectives of a sustainable, resilient, and inclusive economy can be met only with the support of the third sector of the economy, namely the non-profit sector. However, this sector despite its huge relevance and need often faces a dire crunch of financial resources. Honourable Finance Minister Smt. Nirmala Sitharaman in her budget speech 2020 announced the setting up of a Social Stock Exchange. A Social Stock Exchange is a holistic approach towards the overall development of the social sector by unlocking large pools of social capital, where donors and social enterprises will meet together, social enterprises will list to gather social capital via various fundraising additional instruments. However, the setting up of the whole new ecosystem*



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*of a social stock exchange needs careful planning and consideration of various related issues to ensure that the social solutions envisaged are safe and sustainable. We need a new set of regulations/procedures for Social Stock Exchanges vis a vis listing of social enterprises, measurement, and reporting of social and/or environmental impacts – preparation of social impact reports, standardizing social finance, to name a few.*

## Introduction

Social Enterprises (SE) are organizations that pursue a social mission. Social Enterprise is more a matter of purpose than legal form. The two types of social enterprises include For-Profit Social Enterprise (FPE) and Non-Profit Social Enterprise (NPO). FPEs include Companies registered under the Companies Act (both Private Limited and Public Limited), Sole Proprietorships, Partnership Firms, Hindu Undivided Families, and Limited Liability Partnerships and NPO includes Section 8 companies, Trusts, and Societies.



Defourny and Nyssens (2010)<sup>1</sup> have provided four criteria that reflects the economic and entrepreneurial dimensions of social enterprises:

- a continuous activity producing goods and/or selling services
- a high degree of autonomy
- a significant level of economic risk
- a minimum amount of paid work.

Further, Defourny and Nyssens (2010) have also stated five indicators that encapsulate the social dimensions of such enterprises including:

- an explicit aim to benefit the community
- an initiative launched by a group of citizens
- a decision-making power not based on capital ownership
- a participatory nature, which involves various parties affected by the activity
- a limited profit distribution.

### Social Stock Exchange and Prerequisites

Along with the ongoing financial crunch, the non-profits face another big challenge of lack of visibility to investors and donors. Social Stock Exchange (SSE) would give social enterprises much greater control over social and environmental missions, boost the availability of funding for scaling up operations, and create an ethical and transparent investment

environment. SSE is indeed a progressive step towards the socio-economic development in the country especially for achieving 13 SDGs (leaving out Goals 12, 13, 14 and 17) as prioritised by Niti Aayog<sup>2</sup> wherein a platform will be created for the social enterprises and the investors to come together.

The social enterprises have their unique needs which could be met with an enabling policy and regulatory environment, robust governance structures and measurable social impacts. The basic prerequisite for an SSE is the existence of social enterprises. Besides social enterprises an SSE would operate with:

#### • Investors/Donors

Investors could be impact investors, incubators, accelerators, corporations and crowd funders. Impact investors/ESG investors are those investors who invest with the intention to generate a measurable, beneficial social or environmental impact alongside a financial return. They evaluate investment avenues based on ESG parameters and/or ratings and are open to accepting below market rate financial returns. Incubators provide financial support and advice to entrepreneurs who want to develop and pilot their social impact ideas. Accelerators facilitate access to funding, provide mentoring and training, help refine business models



Social Stock Exchange (SSE) would give social enterprises much greater control over social and environmental missions, boost the availability of funding for scaling up operations, and create an ethical and transparent investment environment.

and provide support for measurement of social impact. Crowd funders are those who provide small amounts of capital but are large in number, to finance a business venture via social media platform and websites.

#### • Intermediaries and other independent agencies

Some intermediaries, probably broker, would facilitate sale and purchase of financial instruments. Other independent agencies /individuals namely, valuers, rating agencies, social impact assessors, information repositories, social auditors would also play an important role in running and functioning of SSE.

#### • Infrastructure

- Exchange platform – like the existing Bombay Stock Exchange and National

<sup>1</sup> [https://www.researchgate.net/publication/238106607\\_Conceptions\\_of\\_Social\\_Enterprise\\_and\\_Social\\_Entrepreneurship\\_in\\_Europe\\_and\\_the\\_United\\_States\\_Convergences\\_and\\_Divergences](https://www.researchgate.net/publication/238106607_Conceptions_of_Social_Enterprise_and_Social_Entrepreneurship_in_Europe_and_the_United_States_Convergences_and_Divergences)

<sup>2</sup> <https://niti.gov.in/sdg-india-index>

Stock Exchange or in partnership with any one of them, with specific listing norms, trading rules, operational processes, reporting requirements and governance structures.

- Legal framework – Appropriate laws pertaining to formation, listing, reporting and taxation along with the regulatory framework for SE to form and operate is needed wherein the formation and fund raising can be done as early as possible without bureaucratic hiccups. Also, investor protection norms and resolution mechanisms should be put in place.
- Regulatory framework - Securities and Exchange Board of India (SEBI) / any other body would act as the regulatory authority for the SSE for the smooth functioning of the entire SSE ecosystem.

## SEBI - Working Group on Social Stock Exchange

Securities and Exchange Board of India (SEBI) constituted a Working Group to review and recommend possible structures and mechanisms, within the securities market domain, to facilitate the raising of funds by social enterprises and voluntary organizations as well as associated regulatory framework inter-alia covering

the issues relating to eligibility norms for participation, disclosures, listing, trading, oversight etc. The Working Group Report<sup>3</sup> on Social Stock Exchange defines SEs as a class or category of enterprises that are engaged in the business of “creating positive social impact”. They would provide a declaration stating their intent to create positive social impact, describing the nature of the impact they wish to create and reporting the impact that they have created. There will be an additional requirement for FPEs to conform to the assessment mechanism to be developed by SEBI. Both FPEs and NPOs will be subject to a common minimum standard of reporting social impact, and operating practices (governance and financial reporting). While both FPEs and NPOs are concerned with social impact, the type of funding avenues open to them are fundamentally different given the nature of their legal structures and expectations of their “*fund providers*”. Specifically, FPEs can raise equity while NPOs cannot (except Section 8 companies). The report calls for direct listing of NPOs through the issuance of bonds, a range of funding mechanisms, pairing innovative instruments by which NPOs could associate with the SSE, a reporting standard that offers investors and donors a standardized framework for measuring social impact and Sector-level infrastructure institutions such as information repositories and social auditors.

## Recommendations of SEBI

## Working Group Report on Social Stock Exchange

The recommendations of the group have been summarized below:

- Besides equity, debt and crowdfunding, instruments of fund-raising such as zero-coupon-zero-principal (ZCZP) bonds, social venture funds (SVFs) and mutual funds would provide a wide gamut of options to “donor” investors looking to invest with an objective to create a social impact as well as for corporates to deploy CSR funding by connecting directly with social organisations. ZCZP bond would be listed on SSE and works the same way as a donation providing the NGO both high visibility and credibility. SVFs work as “grants-in, grants-out” vehicles for charitable purposes under the SEBI’s Alternative Investment Fund (AIF) guidelines.
- Information Repositories (IRs) will provide credible, standardised information about the NPOs. As of now, information of only a small fraction of all NPOs is available. The IRs would perform the functions of enumeration (listing of active NPOs and their activities), standardization (articulating a standard reporting format for NPOs and helping them to do information reporting), and verification (due diligence). This would build greater

<sup>3</sup> <https://ourgovdotin.files.wordpress.com/2020/06/report-of-the-working-group-on-social-stock-exchange.pdf>

recognition and trust in the sector among funders and the community at large.

- Introducing standard reporting norms and impact measurement for SE. Measuring social impact poses a huge challenge due to lack of a common currency for measurement, use of proxies often dilute focus on the beneficiary, no defined timescale, difficulties in attribution, and various unintended externalities.
- A common minimum standard for reporting social impact is proposed which comprises three sections. Section 1 includes Strategic Intent and Goal Setting, Section 2 is the Social Impact Scorecard whereas Section 3 relates to general information about members of governing body, prior funding history and financials, registrations/licenses. To begin with, Minimum Reporting Standard for the immediate term for SE interested to list on SSE is been proposed which would extend to limited third party verification by social auditors in the intermediate term and full third party verification by social auditors in the ideal end state.
- A greater shift towards outcomes-oriented measurement in place of inputs and outputs-oriented measurement, especially for those NPOs that are looking to create social impact at longer horizons than a year is envisioned. With respect

to impact measurements a clearer and more refined statements of intent to create social impact by SE is expected. SE would be subject to more rigorous assessments of the social impact that is being created (along the reach, depth and inclusion dimensions) and more graded evaluations would arise therefrom with more granular disclosures of governance mechanisms and financial operations. Presently Impact Reporting and Investment Standard (IRIS) Metrics and Global Impact Investing Rating System (GIIRS) Rating system is widely used. IRIS provides social and environmental impact indicators with standard definitions. GIIRS is based on IRIS definitions and rates organizations based on Governance, Community, Workers, Environment, Social and Environment Focused Business Models. Standardized metrics of social impact and standardized reporting frameworks are needed that would help SE to measure/quantify and report/disclose social impacts in a transparent and accountable manner.

- Social auditors will perform an independent verification of impact reporting. While in the immediate term, NPOs need only self-reporting, from the intermediate term onwards, social auditors can take over this function.
- Operating the “*capacity*



Measuring social impact poses a huge challenge due to lack of a common currency for measurement, use of proxies often dilute focus on the beneficiary, no defined timescale, difficulties in attribution, and various unintended externalities.

*building fund*” with an initial allocation of ₹100 crore for enhancing reporting capabilities by NPOs (particularly the smaller NPOs). Creating awareness and driving adoption of this fund among NPOs, philanthropists, and donors.

Certain other policy interventions would be needed for the SSE ecosystem. The recommendations for the same include:

- Allow funding to NPOs on SSE to count towards CSR commitments of companies and authorizing the trading of CSR spends between companies with excess CSR spends and those with deficit CSR spends via the SSE platform.
- Notification of zero coupon zero principal bond of NPOs as a security under SCRA.
- Enabling foreign entities to invest in SVFs listed on the SSE by clarifying rule 4 of

the FCR Rules, 2011.

- Lowering of the minimum corpus requirement and minimum ticket size for SVFs. The current floors of INR 20 crores and INR 1 crore limit the participation of smaller outcome funders.
- Investors to get benefits which allow all investments in securities/instruments of NPOs listed on SSE to be tax deductible, and corporates to deduct CSR expenditure from their taxable income, among other things. Investment by companies will be considered as part of their Corporate Social Responsibility (CSR) initiatives. Allowing a tax holiday of 5 years to FPEs listed on the SSE, from the time of first listing and revenue generated by stock exchanges through SSE to be tax deductible.

## Social Stock Exchange – Global Models

### 1. Brazil - Brazil's Socio-Environmental Impact Exchange (BVSA)

Brazil set up the first SSE in the name of Brazil's Socio-Environmental Impact Exchange (BVSA) under the umbrella of BOVESPA Stock Exchange in 2003. It is an information exchange which evaluates NPOs and identify projects requiring funds from private investors. It provides fund to specific projects within a fixed timeline. Providers of capital/fund do not receive any financial return. Impact on society is measured through

SDGs. Rigorous selection process for listing of projects is followed on the basis of 5 Ps as the selection criteria (SDG-People, Planet, Prosperity, Peace, Partnership).

### 2. South Africa - South African Social Investment Exchange (SASIX)

SASIX is the second SSE in the world, established in 2006, tied with the Johannesburg Stock Exchange. SASIX works like a conventional stock exchange allowing ethical investors to start investing from as little as Rand 50 (~INR 200) to, in turn, get a tax benefit. The exchange provides access to capital for small and remote organisations and investors who want to invest in one project or a portfolio of projects – by purchasing shares online or through the offices of the Greater Good South Africa Trust. In addition to this, Greater Good South Africa provides analysis of the achieved outcomes and an assessment of the lessons learned at the end of the social investment cycle. SASIX provides independent research, evaluation and monitoring to ensure that listed projects meet a set of criteria as well as are able to deliver measurable returns both social and financial or any one of them<sup>4</sup>. Similar assessment and due diligence considerations are applied to projects as would be applied to financial investments.

### 3. UK – Social Stock Exchange in London (SSX)

Established in June 2013, SSX does not provide share trading facility directly. It provides a

database of companies (i.e. lists down social organisations for investors to invest in) who have passed a rigorous “social impact test” while at the same time acting as a research resource for would-be social investors. It acts as a strong information repository – an information provider publishing standardised and comparable social impact data on listed organisations. For any organisation to be listed on the social stock exchange, it must be registered in the London Stock Exchange and must successfully undergo a social impact test conducted by independent experts. There is four stage admissions process and mandatory reporting requirement. The Four steps are - Step 1: Basic Application Form, Step 2: Impact Report addressing six key areas, Step 3: SSE Admission Panel judges the suitability, Step 4: Annual review of company's social or environmental metrics by 11 finance and impact investing experts. Mature companies (for profit only) already listed on conventional SE can only list on SSX and can trade on whatever securities. Social Impact report for review is mandatory. To stay listed, annual impact reports to be made available on website.

### 4. Singapore - Impact Investment Exchange (IIX)

IIX (2013) is based on a crowd-funding model that allows mature social enterprises to raise capital by issuing securities to a larger group of investors on a public platform that facilitates trading in listed securities

<sup>4</sup> <https://www.nabard.org/auth/writereaddata/tender/0409202831Social%20Enterprise%20and%20Social%20Stock%20Exchange.pdf>

(including shares and bonds). IIX's USD 20 million (~INR150 crore) women's livelihood bond was the first instrument listed on the impact exchange. While being similar to the UK's SSX model in some ways, the Singapore model also includes non-profits in the sector who can issue debt instruments like bonds. While regulated by the financial services commission and operated by Stock Exchange of Mauritius (SEM), IIX screens potential issues on the impact eligibility criteria and provides recommendations to SEM. IIX uses the Social Return on Investment (SRoI) framework and the IRIS metric. IIX mandates the potential impact issuers to appoint an authorised impact representative (AIR). AIR safeguards the interests of investors by ensuring SE commitments in terms of appropriate usage of capital, compliance to corporate governance norms and financial integrity.

### 5. Canada – Social Venture Connexion (SVX)

SVX established in 2013 is perhaps the only SSE which comes close to being a full-fledged social exchange albeit for institutional investors only. SVX brings social and environmental venture of all types - from early-stage, scaling ventures, to funds that directly invest themselves, to non-profits offering debt opportunities. SVX is an online platform that uses crowd funding and private placement to support capital raising by impact ventures and funds. Only accredited investors

(who meet certain net worth or income benchmarks) can transact. For social businesses and organisations, SVX allows provisions to list organisations and its securities, tailor fundraising requirements and attract investors. The broad range of securities issued through SVX includes common shares, preferred shares, bonds, convertible debentures and fund units and currently no secondary trading is allowed, only accredited investors are permitted to access SVX, which include foundations and endowments, asset managers, wealth advisors and HNIs. Satisfactory Global Impact Investment Rating System (GIIRS) rating mandatory for profit businesses.

### 6. Mauritius - The Impact Exchange (IX)

The IX was established in 2013 and has yet to fully launch in the sense of listing individual social businesses whose securities can be bought and traded. At IX, for-profits SE will be able to sell common equity, preference shares or bonds while non-profit SE will be able to list bonds. So far, it appears that the last piece is closest to completion with the upcoming launch of two new types of social impact bonds. The IX is a joint initiative between the Stock Exchange of Mauritius Ltd (SEM) and Impact Investment exchange Asia (IIX Singapore), based in Singapore. The latter incubated IX "to allow larger Social Enterprises to access the public capital markets while offering socially-minded Impact Investors the

opportunity to efficiently and effectively direct their capital into liquid investments that align with their values."

Entities listed are subject to conventional securities regulation. Potential issuers must appoint an Authorized Impact Representative ("AIR") to support them in the listing process and to ensure compliance with the listing requirements (social and financial)<sup>5</sup>. All AIRs must be accredited and registered with the SEM.

### 7. Jamaica – Jamaica Social Stock Exchange (JSSE)

JSSE established in January 2019 has the primary objective as: Phase 1- facilitating and promoting a higher culture of donation in Jamaica. Phase 2 - facilitate Social Value Creation through the business activity of SEs and high-levels of capital investment in Social Service creation. Fundraising by NPO is done via the online platform (Jamaica Social Investment Exchange - JSIX). Organizations list for donations. Donors are given access to site to donate to receive social shares. Social shares to be made tradable in JIIX. JSSE has a Advisory Board along with a Listing and Selection Committee and a dedicated in-house Management Team. Any company registered with the Companies Office or as a NPO with a technically and financially viable project/program with a Social Mission that will solve a social or environmental need, can apply. A Selection process is followed

<sup>5</sup> <https://www.nabard.org/auth/writereaddata/tender/0409202831Social%20Enterprise%20and%20Social%20Stock%20Exchange.pdf>

to qualify an applicant for funding while listing will follow when full funding is received.

## 8. Luxembourg - Luxembourg Green Exchange (LGX)

LGX is a SSE Equivalent dedicated to sustainable financial instruments, which include bonds, funds and other financial instruments. LGX is not a separate market but rather a unique repository for green, social and sustainability information and thus constitutes an accessible and comprehensive place where trustworthy information can be retrieved easily and for free. Funds getting a label by one of the following label agencies: LuxFLAG (Luxembourg), FNG (Germany), Swan (Nordics), and the TEEC, or SRI labels (French government) can only be exhibited on LGX. Such funds are committed to an ongoing reporting which covers the sustainability performance of the fund's portfolio and a proof of label accreditation renewal.

## 9. Unites States – Mission Market (MM)

Mission Market is a SSE Equivalent which connects socially-minded companies to investors, provides review for due diligence and offering documents, brings in the capital, and closes the transactions through its broker dealer partner. Accredited investors registered with MM can view approved offerings of SE on the site. For issuers, provide support of alternative capital raising structures like the Direct Public Offering, Cooperative Shares, Private

Equity, Private Placements, and unregistered debt offerings as well as provides marketing for offerings through widespread promotion of the platform and Virtual Road Show.

Investor members are invited to online presentations, where individual issuers create video presentations describing their work and investment opportunities. All issuers must certify their impact and provide annual reporting using quantitative metrics as per the Impact Reporting and Investment Standards (IRIS).

## 10. Kenya - Kenya Social Investment Exchange (KSIX)

Kenya Social Investment Exchange (KSIX) was launched in 2011 is a SSE Equivalent to profile social enterprise investment opportunities in Kenya. Interested impact investors would contact the KSIX to confirm their eligibility and to identify potential debt investment opportunities. It vets social enterprises and connects them with domestic and foreign impact investors. The listed social enterprise has to demonstrate social impact and financial sustainability beyond the funding period. The social purpose enterprise assessment processes must be informed by Global Reporting Initiative (GRI) and Impact Reporting and Investment Standards (IRIS).

## 11. Austria – Impact Finance Organization (IMFINO)

IMFINO is a SSE Equivalent, aims to connect impact investors with impact

investment projects (entrepreneurs). It offers only “Industry Know How” of impact investing sector, and an open marketplace in which entrepreneurs are able to present sustainable projects (companies) for interested investors free of charge. The online platform for investors and entrepreneurs (Global Impact Investing Vienna Exchange - GIIVX) is going to be the major service of IMFINO.

## 12. New Zealand - New Zealand Stock Exchange (NZX)

NZX is a SSE Equivalent allows investors to donate small parcels of shares to a designated charity. As this could be more of an administrative burden than benefit to investors, all partners waive the fees associated with donations to ensure the viability of the programme.

## Understanding Social Impact Measurement of Social Enterprises

All investments are made as per the risk, return and liquidity trade-offs. However, the investments by SE and impact investors are done weighing all of these factors as well the “Social impact”. Social impact is the positive change that SE has created or effected over time. According to a Social Enterprise East of England (SEEE) booklet on ‘Measuring making a difference’, social impact measurement is the process of providing ‘evidence that your organisation - whether it is a social enterprise, voluntary or community organisation or

traditional business - is doing something that provides a real and tangible benefit to other people or the environment.' (SEEE 2009)<sup>6</sup>. This change could be social, economic and/or environmental. For SE creating positive social impact is at the heart of what they do and they need to identify, understand and capture the full value of the impact of their activities. It helps to know whether mission and vision is met or not. The benefits of impact measurement are many<sup>7</sup>. It facilitates not only knowing about the present impacts but also help for further putting the resources at the best use. Social impact assessment helps SE to plan better, work more effectively, and fruitfully build programs to scale. Knowing which activities are beneficial and bringing desired outcomes and which not is crucial.

Impact is the measure of benefits arising from an investment which is based on intentionality. The expression of an investor's impact objectives acts as an important precursor to effective measurement. Impact measurement is an extremely difficult challenge. Some impacts can be easily measured while some impacts are actually very difficult to measure/quantify. For example – How have a service changed lives? Since impacts vary across beneficiaries/ communities etc. it is difficult to end up to a meaningful assessment. Further, SE would measure and report on the impact they're having, both now and in the future. To begin with measurement may

be simple, easy but over time it becomes more and more complex.

Impact of a SE reflects the long-term changes for people, the environment or the economy that the SE creates or contributes to? A SE should also know about the impacts which could not be achieved as well as unexpected impacts (either positive or negative) of its activities.

### Measuring Impact

Measuring impact is useful not only to prove the social impact but also holds SE accountable. It further helps SE to attract additional funding. To begin with thinking about the impact of one's activities need answer to the following questions:

- Changes in the long term for people, the environment or the society that SE creates or contributes to?
- What are the most important things we need to know about? What desired impacts, if not achieved would stop from meeting the mission?
- Are there any unexpected impacts of the activities (either positive or negative)?
- Who do we need to tell and in what form do they need to know (e.g. disclosure and report, funding framework etc.)

### Prerequisites for Impact Assessment

To assess impacts certain prerequisites are warranted-

- Primacy of social/ environmental mission and

intent of SE – This articulates the primary reason for the existence of SE, that is, Positive Social Impact.

- Clear purpose and Theory of Change - This forms the basis for performance assessment in terms of output, outcome, and performance.
- Impact Performance Measurement and Monitoring Systems.

The impact requirements follow multiple stages. The first stage is about mission and intent – Specific and clearly stated positive social or environmental impact as the primary reason for the existence of the SE. The second stage is Clear purpose and the theory of change- this forms the basis of performance assessment to demonstrate output, outcomes, and social performance. The third stage is about Impact performance measurement and monitoring systems – Commitment to ongoing monitoring and evaluation of impact performance



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<sup>6</sup> [https://www.socialauditnetwork.org.uk/files/8113/4996/6882/Getting\\_started\\_in\\_social\\_impact\\_measurement\\_-\\_270212.pdf](https://www.socialauditnetwork.org.uk/files/8113/4996/6882/Getting_started_in_social_impact_measurement_-_270212.pdf)

<sup>7</sup> <https://www.futurelearn.com/courses/social-enterprise-sustainable-business/0/steps/20920>

using clearly defined impact indicators for performance assessment and reporting. Impact Reporting is the fourth stage – which calls for impact reports as per the reporting principles and requirements applicable to SE. The last stage is Independent Impact Certification by independent entities/bodies/assessors.

## Stages of Impact Measurement<sup>8</sup>

Impact measurement is nothing but the measure of benefits arising to the enterprise itself as well as its stakeholders. It is done in five stages, namely,

- Planning
- Engaging
- Setting relevant measures,
- Measure, validate and value, and
- Report, learn and improve.

The planning stage includes understanding the use and management of resources that would most likely deliver the desired outcomes. At the engaging stage, stakeholders are engaged to identify benefitting stakeholders as well as recognise the nature of the benefit to them. This involves internal stakeholders like employees, management, volunteers, and trustees, present and past to learn together about the proposed intervention and share in the expectation of the value it can bring. At the stage of setting relevant measures, the planned intervention and the outcomes and impacts it can deliver are matched to the stakeholders which will

benefit to develop measures. This would help in planning the impact measurement and likely improvements needed for future. The measuring, validating and valuing stage helps internal and external parties focus their efforts on what will deliver the desired outcomes. It enables continuous improvement and draws parties together to support each other. Finally, the report, learn and improve stage supports outreach, both in reaching more potential partners, beneficiaries, funders to enhance impacts.

## Disclosure and Reporting – Social Impact Measurement

Social enterprises work to make a difference for people, the planet and the way limited resources are being used. The enterprise and its stakeholders - those associated with it or affected by it – need to know if it is achieving its objectives, what impact it is having on society and on the environment, if it is living up to its values, and if the objectives and values are relevant and appropriate. Disclosures and accounts facilitate this assessment and when audited, can be published as a Social Report. Publishing the Social Report allows all stakeholders – those who benefit from what is done, those who do the work, those who pay for it, those who work in partnership – to understand the true nature of the enterprise achievements, developments and the differences made.

These disclosures and accounts are called Social Accounts. Social accounts are a rich source of



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information for use internally for strategic and business plans as well as externally to all stakeholders including funders and investors. In a way the enterprise involves stakeholders by providing a useful framework of all its activities and extends its accountability towards them. Two types of disclosures are recommended for social enterprises in line with Impact Exchange Board Listing Guide<sup>9</sup>.

1. Continuous Disclosures – All material information to be immediately released for the benefit of stakeholders.
2. Periodic Disclosures - Reports at regular intervals:

<sup>8</sup> <https://op.europa.eu/en/publication-detail/-/publication/0c0b5d38-4ac8-43d1-a7af-32f7b6fcf1cc>

<sup>9</sup> [https://iixglobal.com/wp-content/uploads/2017/04/Impact\\_Exchange\\_Listing\\_Guide-2017-1.pdf](https://iixglobal.com/wp-content/uploads/2017/04/Impact_Exchange_Listing_Guide-2017-1.pdf)

- Quarterly Financial Reports
- Annual Financial Reports (Audited)
- Half Yearly Impact Reports
- Annual Impact Reports (Certified)
- Annual Impact Certification of ongoing status as impact entity.

## Social Impact Measurement Framework<sup>10</sup>

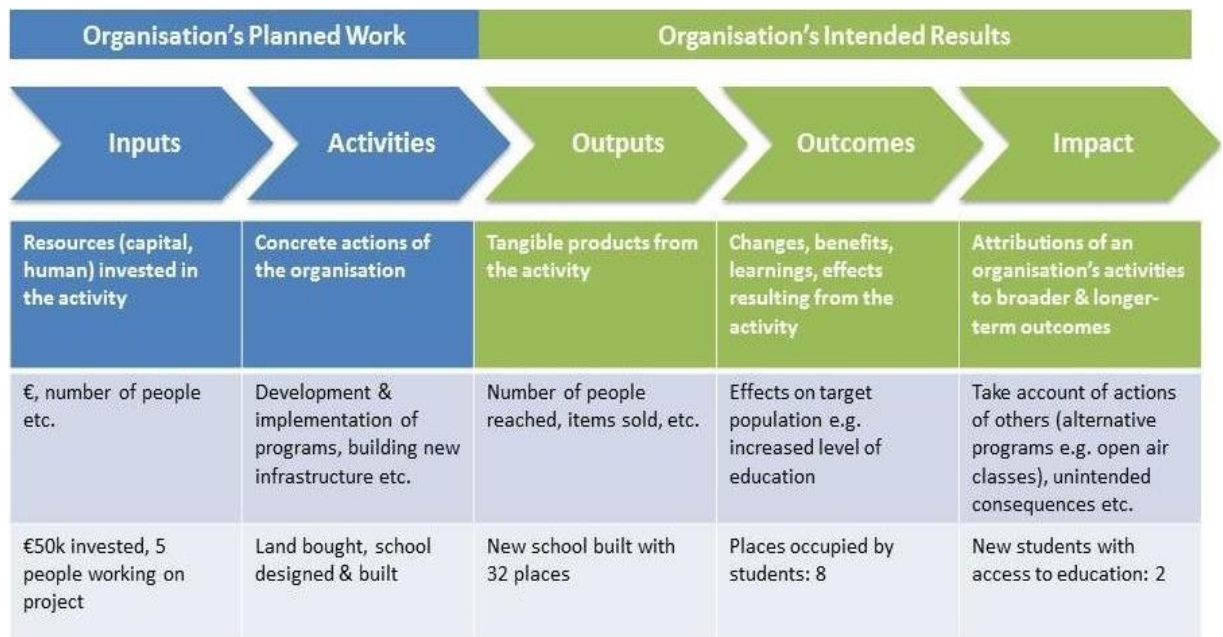
Social impact measurement seeks to identify and quantify the impacts of SE via an impact measurement framework. The impact measurement framework provides the structure for assessing all aspects of an enterprise impact using multiple tools and/or methods to collect information. The enterprise intended results would be in the

form of – Outputs, Outcomes and Impacts. The intended results would flow from Inputs and activities.

The measurement of inputs, activities, outputs, outcomes and impact is important because it focusses both on accountability as well as performance of SE. The various resources supplied are known as inputs. Inputs could be financial, intellectual, human or others. Inputs lead to concrete actions in the form of activities aimed at creating improvements – changes – in the lives of beneficiaries. Impacts vary from sector to geography to beneficiaries. Hence the measurement of impact requires an expert who can measure impact on some indicators. Standardized indicators like IRIS may also be used yet at times they might not fit well to the enterprise.

## Social Audit

Social audit is the audit of accounts of SE which increase their credibility in relation to the attainment of its purpose and goals. Social auditing is a process that allows a SE to evaluate and explain its social, economic, and environmental benefits. It is a way of measuring the extent to which the SE lives up to the shared values and objectives it has committed itself to. It provides an assessment of the impact of an SE's non-financial objectives through systematic and regular monitoring based on the views of its stakeholders. A social audit helps to reduce gaps between vision and reality as well as between efficiency and effectiveness. Social auditing creates an impact upon governance. It values the voice of especially those stakeholders often whose voices are seldom



Source: Proposed approaches to social impact measurement in European Commission legislation and in practice relating to EuSEFs and the EaSI, <https://op.europa.eu/en/publication-detail/-/publication/0c0b5d38-4ac8-43d1-a7af-32f7b6fcf1cc>

<sup>10</sup> [https://www.socialauditnetwork.org.uk/files/8113/4996/6882/Getting\\_started\\_in\\_social\\_impact\\_measurement\\_-\\_270212.pdf](https://www.socialauditnetwork.org.uk/files/8113/4996/6882/Getting_started_in_social_impact_measurement_-_270212.pdf)

heard. Social Audit can be used to provide specific inputs for the following:

- To monitor social and ethical impact and performance of the SE
- To provide a basis for forming management strategy in a socially responsible and accountable way and to shape strategies
- To facilitate organisational learning on how to improve social performance
- To facilitate the strategic management of SE
- To inform the community, public, other organisations, and institutions about the allocation of their resources (time and money); this refers to issues of accountability, ethics (e.g., ethical investment) etc.

The Technical Guide on Social Audit<sup>11</sup> issued by ICAI provides that a good social audit carries the following characteristics – Improved Social Performance, Multiple Stakeholder Perspective, Comparability, Comprehensiveness, Regularity of Coverage, Independent Verification and Transparent Reporting.



The enterprise intended results would be in the form of – Outputs, Outcomes and Impacts. The intended results would flow from Inputs and activities. The various resources supplied are known as inputs.

## Opportunities for Chartered Accountants

There are various agencies engaged in the conduct of Social Audits in various scenarios. These could be independent agencies, accounting firms, or other types of organizations (including accredited agencies that fulfil certain qualification criteria). The Technical Guide on Social Audit issued by ICAI indicates that largely Social Audit is taken up by Civil Society organizations that follow their own standards and train their own auditors to conduct social audits under mandates from auditee organisations.

Chartered Accountants can play a very crucial role in implementation and dissemination of the social audit. Chartered Accountants are probably the best independent expert available and associated with almost all the enterprises/organisations whether small or big, whether in rural or urban areas. They can facilitate social audit processes for SE at all stages of their activities- right from the planning to the board level governance, to the basic systems to the reporting and disclosure processes. Besides, financial area expertise, expertise in the domain of impact assessment and measurement would be needed which spreads across various and rather all domains in which SE operates. Chartered Accountants would be expected to be able to put communities' interests first, have inquisitiveness coupled with a professional scepticism, ability to understand programmes/activities and their wider social context,



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follow a systematic approach to the Social Audit task and be unbiased and independent. The newly constituted Sustainability Reporting Standards Board (SRSB) of ICAI is undertaking several initiatives to build capacity of chartered accountants in this emerging area.

## Way Forward

If implemented, all the proposals on SSE could help the country lay a comprehensive foundation for social finance and boost the funding of this sector over the years to come. SSEs will be entitled to create a new set of regulations to distinguish social enterprises and impact investors, establish procedures to access social capital, standardize measurement of social impact and fix reporting requirements. SSEs and all the stakeholders must collectively ensure that the social solutions are safe and sustainable. ICAI will play a major role in this area to meet the diverse requirements of the stakeholders. ■■■

<sup>11</sup> <http://kb.icai.org/pdfs/PDFFile5b28e290736540.37919798.pdf>

# Impact of Ind-AS Adoption on Value Relevance of Nifty-50 Firms: An Application of Panel Regression in Ohlson Model

*Present paper attempts to explore the impact of mandatory adoption of Ind-AS on financial ratios of the companies. Companies which were constituents of Nifty-50 on April 1, 2016 were chosen as sample for this study but due to unavailability of data, sample size reduced to 36. Data for six years (three years prior to adoption of Ind-AS and three years post-adoption of Ind-AS) were collected from 2013-14 to 2018-19. Various financial ratios were collected and some were calculated for the purpose of analysis. Read more...*



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After rejection of normality (K-S Test), Wilcoxon Signed Rank was used to find any significant difference in the measures of financial ratios in pre- and post-adoption period. Results revealed no significant difference in the measures during the two periods. Further Kruskal-Wallis H Test was used to find any significant difference among the measures of six years. Results revealed that only market price (MPS) showed significant difference over the years. It was also attempted to

estimate Ohlson Model (1995) with some modifications to explore whether there is any change in the predictors of market price of a company during pre- and post-adoption period. Panel Data Regression with three variants (Pooled, Fixed Effect and Random Effect Model) was estimated and compared to choose the most parsimonious model. In both the periods, Fixed Effect Model was proved to be the most parsimonious model. Further, there was major change in the



predictors of market price from pre- to post-adoption period.

## Introduction

Globalisation and technological advancements has changed the economic scenario at the world level. Every country used to have its own set of accounting standards and principles. But in past few decades, economies all over the world have become extremely integrated which make it inevitable to have some accounting platform. IFRSs (International Financial Reporting Standards) provide a single set of standards to be used internationally by companies operating in different countries at a time. IFRS provides a common language for standardized accounting practices. Hence countries are motivated to become IFRS compliant and there are two ways for it – (i) Adopting IFRS or (ii) Converging to IFRS. Convergence of accounting standards is a burning issue all over the world. It involves alignment of two different set of standards. Looking at practical difficulties in adopting IFRS, India has converged its Accounting Standards with IFRS so that it may become easy for investors globally to analyse and compare the financial statements of Indian companies. These converged standards are called Ind-AS.

The Initial date of implementation of Ind-AS was 2011 but due to certain issues, Ministry of Corporate Affairs postponed its implementation date. In July

2014, the Finance Minister announced to apply Ind-AS urgently. On 16 February 2015, the Ministry of Corporate Affairs had notified with the Companies (Indian Accounting Standards) Rules, 2015. It, therefore, revised the roadmap of implementation of Ind-AS for companies excluding the Banking companies, Insurance companies, and NBFC'S from it. As per the notification, from 1<sup>st</sup> April 2015, Ind-AS shall be implemented by the companies on a voluntary basis and will be mandatory from 1<sup>st</sup> April 2016 for companies listed/unlisted or in process of listing on Stock Exchange in India or outside India having net worth greater than equal to 500 crore.

## Statement of the Problem

Companies communicate with the investors through their financial statements or annual reports. All information provided in those statements, are judged on the basis of two parameters – reliability and relevance. Relevance implies that the information has the ability of affect the economic decisions taken by users of financial statements. Value relevance has emerged as an area of research of late. It implies that the information included in the financial statements has an impact on the firm's value. Market value of firm depends on the perceptions of market participants about the performance of the firm and accounting information provided by the company. In this light, it was felt necessary to examine the impact of adoption

of Ind-AS on financial ratios and value relevance of Indian companies.

## Literature Review

Collected literature was classified on the basis of their objectives, tools used, geographical area of research and findings. A summary has been presented below:

When a company adopts any new accounting standard to prepare their financial statement it may positively or negatively impact financial indicators. Sometimes it remains unchanged. Several researchers around the globe aimed to find impact of voluntary adoption of IFRS on the financial statements and financial activities of the companies (Achalapathi & BhanuSireesha, 2015; George & Sankaranarayanan, 2017; Thomas & Lukose, 2018; Perafena & Franco, 2017)

Some of the researchers tried to examine the perception of Public Sector Banks and awareness level of CAs, academicians and stakeholders of the companies towards the implementation of IFRS (Dhankar, Chaklader & Gupta, 2018; Muniraju & Ganesh, 2016). The objective of some researches was to examine positive and negative outcomes of convergence of GAAP with IFRS (Rawal, 2017).

Some of the researchers focused on exploring the impact of IFRS adoption on – financial statements (Achalapathi & BhanuSireesha, 2015; George,

& Sankaranarayanan, 2017; Naderian & Mahadevappa; 2014; Thomas & Lukose, 2018; Kantayya & Panduranga, 2017), on financial indicators and market value (Das, 2017); on financial ratios (Swamynathan & Sindhu, 2011); on cash flow predictability and persistence (Kamath & Desai, 2014; Swamynathan & Sindhu, 2013).

When it comes to researches in different countries, it was found that some researchers focused on the impact of IFRS adoption; some on annual report length in New Zealand (Morunga & Bradbury, 2012), some on the value relevance of accounting information in Turkey (Karğın, 2013), on the quality of the financial information in UK & France (Perafán & Franco, 2017), on the quality of consolidated financial reporting in some European Countries (Müller, 2014).

Majority of researchers, for their study, used the tools like Descriptive statistics (Achalapathi & BhanuSireesha, 2015; Kumara, Erappa & Abhilasha, 2016; Perafán & Franco, 2017; Müller, 2014), Kolmogorov-Smirnov Test (Achalapathi & BhanuSireesha, 2015; George & Sankaranarayanan, 2017; Dhankar, Chaklader & Gupta, 2018), Wilcoxon Signed Test (Achalapathi & BhanuSireesha, 2015; Das, 2017), regression and correlation (Das, 2017; Swamynathan & Sindhu, 2013). And some of them applied ratio analysis and comparative analysis of balance sheet for

their findings (Thomas & Lukose, 2018; Kamath & Desai, 2014).

When it was tried to classify the previous studies on the basis of their findings, some researchers found that value relevance of accounting information has improved with high quality disclosure and by adopting IFRS there would be more transparency in accounting information (Müller, 2014; Sibel, 2013). Some researchers concluded that harmonization of Indian accounting practices with IFRS had improved the accounting quality, measured in terms of cash flow persistence and cash flow predictability and significantly affected the financial indicators, investment activities and operating activities (Swamynathan & Sindhu, 2013; Kamath, & Desai, 2014). IFRS had more significant impact on the Balance sheets as compared to profit and loss of the company and there is only a minimal difference in the values of the components which are recorded in both IFRS and IND-AS statements (Thomas & Alan, 2018). The results of the study showed that IFRS adoption had led to a statistically significant increase in liquidity, profitability and valuation ratios statistics (Achalapathi & BhanuSireesha, 2015).

Thus, the synthesis provided that Indian companies were not so prominently chosen as research subject. Researcher could not find any research which studied impact of standards adoption on financial

ratios and value relevance at the same time. Further, with the roadmap provided earlier for adoption of Ind-AS, current study of value relevance becomes more relevant.

## Research Methodology

Following research methodology was adopted for the present study:

## Research Design

The study is empirical in nature. It attempts to explore the impact of Ind-AS adoption on the financial performance of the sample companies.

## Objectives

1. To find difference between the measures of various financial ratios before and after adoption of Ind-AS.
2. To explore any significant change in the variables affecting shareholders' value before and after adoption of Ind-AS.

## Hypotheses

$H_{01}$ : There is no significant difference between measures of various financial ratios before and after adoption of Ind-AS.

$H_{02}$ : There is no significant difference in the predictors of market value of a firm before and after adoption of Ind-AS.

## Sample and Data Collection

For the sample, companies listed in NIFTY-50 in India are taken for the study which has published their financial

statements for six financial years, 2013-14 to 2018-19. Out of 50 companies, data of 14 companies could not be found for the study period so the final sample size reduced to 36 companies. The companies taken as sample for the study have been listed in Appendix 1.

All these companies were being covered under Phase I mentioned above i.e. they have to compulsorily adopt Ind-AS for their financial statements for the period beginning on or after April 1, 2016. Hence the total sample period was divided into two sub-periods – one was pre-adoption period of three years from 2013-14 to 2015-16 and other one was post-adoption period of three years from 2016-17 to 2018-19. Collected data consisted of various accounting ratios (List mentioned in Appendix 2). Some of the ratios were directly available and some were calculated based on the formulae given in Appendix 2. Data were collected from Ace Equity Knowledge Portal. All data were collected from consolidated financial statements.

## Tools and Techniques

Descriptive statistics was first generated to understand the

basic characteristics of the data. Then Kolmogorov-Smirnov (K-S) normality test was used to determine whether parametric or non-parametric test is to be used. When normality was rejected, Wilcoxon Signed Rank Test was used to explore any significant difference among financial ratios in the pre-adoption and post-adoption period. Further, to find out significance of difference over the entire sample period, Kruskal-Wallis H Test has also been applied.

For exploring the value relevance of adoption of Ind-AS, panel data regression was run. The dependent variable was market value of shares and the independent variables were various financial ratios with a modification in Ohlson (1995) model. The model was tested with its different variants – pooled, fixed effects and random effects models and the most parsimonious model was selected on the basis of some diagnostics.

$$MPS_{jt} = \alpha_1 + \alpha_2 BVPS_{jt} + \alpha_3 EPS_{jt} + \alpha_4 AZS_{jt} + \alpha_5 ROA_{jt} + \alpha_6 ROE_{jt} + \varepsilon_{jt}$$

### Equation 1

This equation was estimated for both pre-adoption period and

post-adoption period separately, with all its variants.

Here,  $MPS_{jt}$  is the market price of firm  $j$  for the year  $t$ ,  $BVPS$  is the book value per share of firm  $j$  for the year  $t$ ,  $EPS$  is the earnings per share of firm  $j$  for the year  $t$ ,  $AZS$  is the Altman's Z Score of firm  $j$  for the year  $t$ ,  $ROA$  is the return on assets of firm  $j$  for the year  $t$  and  $ROE$  is return on equity of firm  $j$  for the year  $t$ . This variable has the value of 1 for 2017, 2018 and 2019 whereas the value of 0 for 2014, 2015 and 2016. Various coefficients to be estimated were  $\alpha_1, \alpha_2, \alpha_3, \alpha_4, \alpha_5, \alpha_6$  and  $\varepsilon$ . MS-Excel, SPSS-21 and Eviews 7.0 were used for data compilation and various tests and models.

## Results and Discussion

The finding of the analysis along with the discussion goes on following lines.

### Descriptive Statistics

Table 1 displays the descriptive statistics of various ratios categorizing into Before-adoption and After-adoption of Ind-AS. Mean, standard deviation, skewness and kurtosis have been calculated for the sub-periods.

**Table 1: Descriptive Statistics**

| Ratios                  | Before 2016-17 |           |          |          | After 2015-16 |           |          |          |
|-------------------------|----------------|-----------|----------|----------|---------------|-----------|----------|----------|
|                         | Mean           | Std. Dev. | Skewness | Kurtosis | Mean          | Std. Dev. | Skewness | Kurtosis |
| Debt-Equity Ratio       | 1.679          | 1.346     | 1.712    | 4.567    | 1.591         | 1.330     | 1.402    | 2.702    |
| Debt Ratio              | .852           | .457      | .910     | .427     | .756          | .371      | .374     | -.211    |
| Equity Ratio            | .649           | .228      | -.086    | -1.177   | .656          | .238      | -.067    | -1.554   |
| Interest Coverage Ratio | 154.973        | 570.640   | 5.193    | 28.315   | 160.831       | 736.708   | 5.921    | 35.331   |

| Ratios                              | Before 2016-17 |           |          |          | After 2015-16 |           |          |          |
|-------------------------------------|----------------|-----------|----------|----------|---------------|-----------|----------|----------|
|                                     | Mean           | Std. Dev. | Skewness | Kurtosis | Mean          | Std. Dev. | Skewness | Kurtosis |
| Capitalization Ratio                | .327           | .233      | .223     | -1.157   | .314          | .234      | .230     | -1.480   |
| Current Ratio                       | 1.375          | .911      | 1.778    | 3.692    | 1.274         | .746      | 1.157    | 1.651    |
| Quick Ratio                         | .982           | .783      | 1.797    | 3.084    | .906          | .644      | 1.164    | .811     |
| Cash Returns to Net Assets          | -.0547         | .389      | -5.140   | 29.046   | -.0306        | .342      | -.790    | 10.141   |
| Cash Returns to Net Worth           | .002           | .027      | -.106    | 2.904    | .003          | .0252     | .618     | 8.749    |
| Cash Returns to Current Liabilities | .009           | .056      | 1.916    | 6.756    | .009          | .050      | .015     | 8.147    |
| Cash Return to Total Liabilities    | .001           | .022      | -.144    | 6.312    | .001          | .0172     | -1.916   | 11.884   |
| Altman's Z Score                    | 8.290          | 7.797     | 1.387    | 1.476    | 8.480         | 8.501     | 1.094    | .098     |
| Net Profit Ratio                    | .116           | .089      | .998     | 1.530    | .115          | .081      | 1.439    | 2.716    |
| Operating Profit Ratio              | .203           | .163      | 2.045    | 4.565    | .200          | .144      | 1.862    | 3.052    |
| Return on Assets                    | .174           | .202      | 2.347    | 6.081    | .148          | .170      | 3.222    | 12.549   |
| Return on Equity                    | .235           | .241      | 2.719    | 8.815    | .205          | .200      | 3.348    | 13.761   |
| Return on Capital Employed          | .180           | 1.873     | -1.281   | 9.167    | -.589         | 6.997     | -5.862   | 34.922   |

Of the stability ratios, Equity Ratio and Interest coverage ratio showed increased values after adoption of Ind-AS in financial statements. Of the liquidity ratios, only Cash Returns to Net Assets, Cash Returns to Net Worth and Altman's Z score showed an increase in value after adoption

of Ind-AS. Of the profitability ratios, all the ratios showed a decreased value after adoption of Ind-AS in the financial statements. Slight variation in both the directions was observed for standard deviation of pre- and post-adoption period. Skewness for most of the variables was positive

in both the periods. Only a few variables had negative skewness. Kurtosis was greater than 3 for majority of variables in both the periods.

### Normality Test

Results of K-S (Kolmogorov-Smirnov) Test have been summarized in Table 2.

**Table 2: Results of K-S Normality Test**

| Ratios            | Kolmogorov-Smirnov |       |               |      |
|-------------------|--------------------|-------|---------------|------|
|                   | Before 2015-16     |       | After 2015-16 |      |
|                   | Statistic          | Sig.  | Statistic     | Sig. |
| Debt-Equity Ratio | .167               | .012  | .145          | .053 |
| Debt Ratio        | .123               | .183  | .122          | .192 |
| Equity Ratio      | .102               | .200* | .174          | .007 |

| Ratios                              | Kolmogorov-Smirnov |       |               |      |
|-------------------------------------|--------------------|-------|---------------|------|
|                                     | Before 2015-16     |       | After 2015-16 |      |
|                                     | Statistic          | Sig.  | Statistic     | Sig. |
| Interest Coverage Ratio             | .417               | .000  | .414          | .000 |
| Capitalization Ratio                | .116               | .200* | .158          | .023 |
| Current Ratio                       | .175               | .007  | .169          | .011 |
| Quick Ratio                         | .188               | .002  | .160          | .020 |
| Cash Returns to Net Assets          | .334               | .000  | .385          | .000 |
| Cash Returns to Net Worth           | .135               | .093  | .179          | .005 |
| Cash Returns to Current Liabilities | .188               | .003  | .272          | .000 |
| Cash Return to Total Liabilities    | .195               | .001  | .238          | .000 |
| Altman's Z Score                    | .201               | .001  | .249          | .000 |
| Net Profit Ratio                    | .124               | .175  | .155          | .028 |
| Operating Profit Ratio              | .213               | .000  | .234          | .000 |
| Return on Assets                    | .197               | .001  | .225          | .000 |
| Return on Equity                    | .243               | .000  | .249          | .000 |
| Return on Capital Employed          | .301               | .000  | .511          | .000 |

On observing the results of normality tests by applying Kolmogorov-Smirnov Test, it was noted that most of the variables derived from the financial statements, in both the periods – pre- adoption of Ind-AS and post- adoption of Ind-

AS are not normally distributed ( $p < 0.05$ ). Hence, choice for further analysis remains with non-parametric tests.

### Wilcoxon Signed Ranks Test

The most common non-parametric test, Wilcoxon

signed-ranks test, is used to detect whether the differences between the two populations are statistically significant or not, the results of which are presented in Table 3. Results contain mean rank, sum of ranks, test statistic and its significance.

**Table 3: Results of Wilcoxon Signed Rank Test**

| Ratios                     | Mean Rank      |                | Sum of Ranks   |                | Statistics | Sig. |
|----------------------------|----------------|----------------|----------------|----------------|------------|------|
|                            | Negative Ranks | Positive Ranks | Negative Ranks | Positive Ranks |            |      |
| Debt-Equity Ratio          | 19.45          | 17             | 428            | 238            | -1.493     | .136 |
| Debt Ratio                 | 19.14          | 17.5           | 421            | 245            | -1.383     | .167 |
| Equity Ratio               | 18.24          | 18.74          | 310            | 356            | -.361      | .718 |
| Interest Coverage Ratio    | 18.63          | 18.4           | 298            | 368            | -.550      | .582 |
| Capitalization Ratio       | 17.61          | 19.89          | 387.5          | 278.5          | -.856      | .392 |
| Current Ratio              | 19.65          | 17.06          | 393            | 273            | -.943      | .346 |
| Quick Ratio                | 17.93          | 19.3           | 376.5          | 289.5          | -.683      | .494 |
| Cash Returns to Net Assets | 18.24          | 18.74          | 310            | 356            | -.361      | .718 |
| Cash Returns to Net Worth  | 16.76          | 19.17          | 285            | 345            | -.491      | .623 |

| Ratios                              | Mean Rank      |                | Sum of Ranks   |                | Statistics | Sig. |
|-------------------------------------|----------------|----------------|----------------|----------------|------------|------|
|                                     | Negative Ranks | Positive Ranks | Negative Ranks | Positive Ranks |            |      |
| Cash Returns to Current Liabilities | 16.30          | 19.28          | 244.5          | 385.5          | -1.155     | .248 |
| Cash Return to Total Liabilities    | 15.64          | 21.36          | 281.5          | 384.5          | -.809      | .418 |
| Altman's Z Score                    | 18.41          | 18.64          | 405            | 261            | -1.131     | .258 |
| Net Profit Ratio                    | 17.74          | 19.35          | 337            | 329            | -.063      | .950 |
| Operating Profit Ratio              | 19.47          | 17.63          | 331            | 335            | -.031      | .975 |
| Return on Assets                    | 20.32          | 15.64          | 447            | 219            | -1.791     | .073 |
| Return on Equity                    | 18.42          | 18.67          | 442            | 224            | -1.713     | .087 |
| Return on Capital Employed          | 17.43          | 20             | 366            | 300            | -.518      | .604 |

It is found that the p-value is greater than 0.05 ( $p > 0.05$ ) in all the ratios. So it can be concluded that adoption of Ind-AS does not significantly affect the financial ratios of NIFTY50 companies. In other words, there is no significant difference

between financial ratios of pre-adoption period and post-adoption period.

It was further examined that if there is any significant difference among the measures of various ratios over the entire

sample period i.e. during six years. For this purpose, Kruskal-Wallis H Test was used and results have been presented in Table 3.

#### Kruskal-Wallis H Test

Table 4 displays the results of Kruskal-Wallis H Test.

**Table 4: Results of Kruskal-Wallis H Test**

| Ratios                              | Chi-Square | p-Value |
|-------------------------------------|------------|---------|
| Debt-Equity Ratio                   | 1.182      | .947    |
| Debt Ratio                          | 1.331      | .932    |
| Equity Ratio                        | .761       | .979    |
| Interest Coverage Ratio             | .404       | .995    |
| Capitalization Ratio                | .186       | .999    |
| Current Ratio                       | .975       | .965    |
| Quick Ratio                         | .819       | .976    |
| Cash Returns to Net Assets          | 5.331      | .377    |
| Cash Returns to Net Worth           | 6.279      | .280    |
| Cash Returns to Current Liabilities | 5.905      | .316    |
| Cash Return to Total Liabilities    | 6.284      | .280    |
| Altman's Z Score                    | .110       | 1.000   |
| Net Profit Ratio                    | .675       | .984    |
| Operating Profit Ratio              | .707       | .983    |
| Return on Assets                    | .963       | .965    |

| Ratios                     | Chi-Square | p-Value |
|----------------------------|------------|---------|
| Return on Equity           | 1.746      | .883    |
| Return on Capital Employed | 1.329      | .932    |
| Market Price Per Share     | 13.735     | .017    |
| Earnings Per Share         | 7.571      | .182    |
| Book Value Per Share       | 6.446      | .265    |

It is revealed from the results that the Chi-square values of all variables except MPS (market price per share) is less than 8 with very high p-values. The Chi-square value of MPS is 13.735 with a p-value of .017. Hence it can be concluded that MPS over different years

has significant difference in the measures. All remaining variables do not exhibit significant difference in their measures of different years.

### Panel Data Regression

Panel data regression with its three variants pooled, fixed

effects and random effects was run and results have been presented in Table 5. The models were run for both pre-adoption and post-adoption period. Table 5 contains the values of coefficients, their p-values along with diagnostic values for the models.

**Table 5: Results of Panel Regression Models**

| Variables      | Pre-Adoption of Ind-AS |         |             |         |             |         | Post-Adoption of Ind-AS |         |             |         |             |         |
|----------------|------------------------|---------|-------------|---------|-------------|---------|-------------------------|---------|-------------|---------|-------------|---------|
|                | Pooled                 |         | FE          |         | RE          |         | Pooled                  |         | FE          |         | RE          |         |
|                | Coefficient            | P Value | Coefficient | P Value | Coefficient | P Value | Coefficient             | P Value | Coefficient | P Value | Coefficient | P Value |
| C              | -86.59                 | .20     | -733.86     | .00     | -85.00      | .21     | -.218                   | .00     | -330.21     | .00     | -255.84     | .00     |
| BVPS           | 1.317                  | .00     | 6.65        | .00     | 1.856       | .00     | -218.32                 | .00     | 3.967       | .00     | 2.351       | .00     |
| EPS            | 14.186                 | .00     | 1.622       | .47     | 10.880      | .00     | 1.673                   | .00     | 10.878      | .00     | 12.580      | .00     |
| AZS            | 7.317                  | .15     | 10.515      | .34     | 6.787       | .23     | 15.416                  | .00     | 20.811      | .02     | 20.673      | .00     |
| ROA            | 1840.3                 | .00     | 2480.6      | .07     | 2681.3      | .00     | 15.740                  | .00     | 186.69      | .82     | 1954.66     | .00     |
| ROE            | -1299.5                | .01     | -1349.8     | .09     | -1903.4     | .00     | 1928.96                 | .00     | -1165.03    | .03     | -1599.568   | .00     |
| R-Squared      | 0.822                  |         | .968        |         | .740        |         | .843                    |         | .935        |         | .757        |         |
| Adj. R-Squared | 0.813                  |         | .948        |         | .722        |         | .839                    |         | .918        |         | .745        |         |
| F              | 94.23                  |         | 47.185      |         | 40.751      |         | 225.42                  |         | 54.763      |         | 63.743      |         |
| F (p-Value)    | 0.00                   |         | 0.00        |         | 0.00        |         | 0.00                    |         | 0.00        |         | 0.00        |         |

Results reveal that in pre-adoption period, except Altman's Z Score, all other independent variables are significant in pooled and random effect models estimated.

### Result of Hausman Test

|               |            |         |
|---------------|------------|---------|
| Pre-Adoption  | Chi-square | p-Value |
|               | 54.837     | 0.000   |
| Post-Adoption | Chi-square | p-Value |
|               | 42.23      | 0.00    |

It was further noticed that all three models were a good fit (Significant F Values). Adjusted R-squared was 0.813, 0.948 and 0.722 respectively for pooled, fixed effects and random effects model. Thus fixed effect model

provided the most parsimonious diagnostics. But the choice between fixed effect and random effect model remains with Hausman Test, with the null hypothesis that random effect model is more efficient than the fixed effect model for analyzing the given data. It was found that the Chi-square value was 54.837 with a p-value of 0.00. Thus it can be concluded that fixed effect model is most efficient one. This model, with adjusted R-squared of 0.948, has the ability of explain 94.8% variability in the data. In this model, except Altman's Z score and EPS, all independent variables have p-Values less than 0.05. Thus all remaining variables are significantly influencing market value. The estimated equation is:

$$\begin{aligned} \text{MPS} = & -733.868 + 6.650 \cdot \text{BVPS} \\ & + 1.622 \cdot \text{EPS} + 10.515 \cdot \text{AZS} \\ & + 2480.602 \cdot \text{ROA} - 1349.864 \\ & \cdot \text{ROA} + [\text{CX}=\text{F}, \text{PER}=\text{F}] \end{aligned}$$

Table 5 further discloses that for after-adoption period, all the variables were significant in the pooled and random effect models. On the other hand, in fixed effect model, except Return on Assets, all remaining variables were significantly influencing market value. For the choice between random effect and fixed model, Hausman Test revealed the test value as 42.23 with a p value of 0.00. Thus null hypothesis of superiority of random effect model was rejected at 5% level of significance. The fixed effect model was the most parsimonious model in post-adoption period also. The value

of adjusted R-squared was .918 which means that this model is able to explain 91.8% variability in the market price. The estimated equation is:

$$\begin{aligned} \text{MPS} = & -330.215 + 3.966 \\ & \cdot \text{BVPS} + 10.878 \cdot \text{EPS} + \\ & 20.811 \cdot \text{AZS} + 186.691 \cdot \text{ROA} - \\ & 1165.032 \cdot \text{ROE} + [\text{CX}=\text{F}, \text{PER}=\text{F}] \end{aligned}$$

As far as the comparison between results of pre-adoption and post-adoption period is concerned, it is found that all the three models are good fit in both the periods. Adjusted R-squared was highest in fixed effect model in both the periods and that too is above .90. Hence fixed effect model is able to explain more than 90% variability in market price in both the periods. Results of Hausman Test were in favour of fixed effect model in both the periods. Fixed effect model of both the period revealed that in pre-adoption period, only BVPS was a variable which had a significant coefficient. EPS, Altman's Z Score, ROA and ROE did not show any significant influence on market price. Whereas in post-adoption period, except ROA, all other independent variables – BVPS, EPS, Altman's Z Score and ROE were significantly influencing market price.

## Conclusion

Present paper attempts to examine the impact of adoption of Ind-AS by the companies which were constituents of Nifty-50. Study aims at exploring any significant difference in financial ratios during pre-adoption and post-adoption

period. For this purpose six years data of 36 Nifty-50 companies were collected which majorly consisted of financial ratios. Some ratios were calculated as they were not directly available. The ratios represented three major categories stability, liquidity and profitability. The collected data were divided into two sub-period – pre-adoption of Ind-AS and post-adoption of Ind-AS.

Normality was checked using K-S Test which was rejected for all the ratios. Hence non-parametric tests such as Wilcoxon Signed Rank Test and Kruskal-Wallis H Test were used to find any significant difference in the measures of ratios – between two sub-periods and over the years respectively. Only market price (MPS) showed significant change over the years. Further Ohlson model (1995) with some modifications was estimated in three variants – pooled, fixed effect and random effect. Fixed Effect Model, in both the periods, emerged as the most parsimonious model. Results revealed that there was a major change in the predictors of market price during pre- and post-adoption period. Altman's Z score and EPS were not significantly influencing market price during pre-adoption period whereas these variables turned to be significant predictors in post-adoption period. Return on assets (ROA) remained insignificant in both the periods. Thus it can be concluded that adoption of Ind-AS has major implications for measuring the financial health of the companies.

# Accounting

## Appendix 1: Sample Companies

| S. N. | Company                                    | S. N. | Company                                     |
|-------|--|-------|---|
| 1     | Adani Ports and Special Economic Zone Ltd. | 19    | JSW Steel Ltd.                              |
| 2     | Asian Paints Ltd.                          | 20    | Larsen & Toubro Ltd.                        |
| 3     | Bajaj Auto Ltd.,                           | 21    | Mahindra & Mahindra Ltd.                    |
| 4     | Bharat Petroleum Corporation Ltd.          | 22    | Maruti Suzuki India Ltd.                    |
| 5     | Bharti Airtel Ltd.                         | 23    | NTPC Ltd.                                   |
| 6     | Bharti Infratel Ltd.                       | 24    | Oil and Natural Gas Corporation (ONGC) Ltd. |
| 7     | Britannia Ltd.                             | 25    | Powergrid Corporation Ltd.                  |
| 8     | Cipla Ltd.                                 | 26    | Reliance Industries Ltd.                    |
| 9     | Coal India Ltd.                            | 27    | Sunpharma Ltd.                              |
| 10    | Dr. Reddys Laboratories Ltd.               | 28    | Tata Motors Ltd.                            |
| 11    | GAIL (India) Ltd.                          | 29    | Tata Steel Ltd.                             |
| 12    | Grasim Industries Ltd.                     | 30    | Tech Mahindra Ltd.                          |
| 13    | HCL Ltd.                                   | 31    | Titan Company Ltd.                          |
| 14    | HDFC Housing & Finance Ltd.                | 32    | Ultratech Cement Ltd.,                      |
| 15    | Hindalco Ltd.                              | 33    | UPL Ltd.                                    |
| 16    | Hindustan Unilever Ltd.                    | 34    | Vedanta Ltd.                                |
| 17    | Indian Oil Corporation Ltd.                | 35    | Wipro Ltd.                                  |
| 18    | ITC Ltd.                                   | 36    | Zee Entertainment Enterprises Ltd.          |

| S. N. | Financial Ratio                     | Symbol Used | Formula                                  |
|-------|-------------------------------------|-------------|--|
| 1     | Debt Equity Ratio                   | DER         | Total Debt / Total Equity                |
| 2     | Debt Ratio                          | DR          | Total Debt / Total Assets                |
| 3     | Equity Ratio                        | ER          | Total Equity / Total Equity              |
| 4     | Interest Coverage Ratio             | ICR         | EBIT / Interest Expenses                 |
| 5     | Capitalization Ratio                | CapR        | Total Debt / (Total Debt + Total Equity) |
| 6     | Current Ratio                       | CR          | Current Assets / Current Liabilities     |
| 7     | Quick Ratio                         | QR          | Quick Assets / Current Liabilities       |
| 8     | Cash Returns to Net Assets          | CRNA        | Net Cash Inflows / Net Assets            |
| 9     | Cash Returns to Net Worth           | CRNW        | Net Cash Inflows / Net Worth             |
| 10    | Cash Returns to Current Liabilities | CRCL        | Net Cash Inflows / Current Liabilities   |
| 11    | Cash Return to Total Liabilities    | CRTL        | Net Cash Inflows / Total Liabilities     |

| S. N. | Financial Ratio            | Symbol Used | Formula  |
|-------|----------------------------|-------------|--|
| 12    | Altman's Z Score           | AZS         | $1.2 T_1 + 1.4 T_2 + 3.3 T_3 + 0.6 T_4 + 0.99 T_5^*$                     |
| 13    | Net Profit Ratio           | NPR         | Net Profit / Net Sales   |
| 14    | Operating Profit Ratio     | OPR         | Operating Profit / Net Sales   |
| 15    | Return on Assets           | ROA         | Net Income / Net Assets  |
| 16    | Return on Equity           | ROE         | Net Income / Total Equity  |
| 17    | Return on Capital Employed | ROCE        | Net Income / Capital Employed  |
| 18    | Market Price Per Share     | MPS         |  |
| 19    | Earnings Per Share         | EPS         | Total Earnings for Equity Shareholders / No of Equity shares outstanding |
| 20    | Book Value Per Share       | BVPS        |  |

\*  $T_1$  = Working Capital / Total Assets

$T_2$  = Retained Earnings / Total Assets

$T_3$  = EBIT / Total Assets

$T_4$  = Market Value of Equity / Book Value of Liabilities

$T_5$  = Sales / Total Assets

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# MCA Notifies Amendments to Ind AS 116 to Provide Lessee Specific COVID-19 Relaxations

*The International Accounting Standards Board (IASB) on 28 May 2020 amended IFRS 16, Leases. The amendment makes it easier for lessees to account for covid-19-related rent concessions such as rent holidays and temporary rent reductions. The amendment exempts lessees from having to consider individual lease contracts to determine whether rent concessions occurring as a direct consequence of the covid-19 pandemic are lease modifications and allows lessees to account for such rent concessions as if they were not lease modifications. It applies to covid-19-related rent concessions that reduce lease payments due on or before 30 June 2021. Read on...*



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IFRS 16 specifies how lessees should account for changes in lease payments, including concessions. However, applying those requirements to a potentially large volume of covid-19-related rent concessions could be practically difficult, especially in the light of the many challenges stakeholders face during the pandemic. This optional practical expedient gives timely relief to lessees and enables them to continue providing information about their leases that is useful to investors. The amendment does not affect lessors.

The Accounting Standards Board (ASB) of ICAI noted that Indian entities preparing Ind AS based financial statements could be facing similar challenges and situations like the International scenario. In addition, there is a need to remain converged with IFRS standards. Accordingly, the ASB of ICAI had issued the exposure draft of proposed amendments to Ind AS 116, *Leases*. After following due process, the amendments to Ind AS 116 were notified by the Ministry Corporate Affairs (MCA) on 24 July 2020 to incorporate lessee specific COVID-19 relaxations. A lessee



can apply the amendments to Ind AS 116 for annual reporting periods beginning on or after 1 April 2020. In case a lessee has not yet approved the financial statements for issue before the issuance of this amendment, then the same may be applied for annual reporting periods beginning on or after 1 April 2019. The amendments notified by MCA to Ind AS 116 are substantially converged with the amendments to IFRS 16.

### Overview of the amendments to Ind AS 116:

**A lessee falls within the scope of the amendment when it meets all the four conditions:**

Criteria 1: Did the rent concession occur as a direct consequence of the COVID-19 pandemic?

Criteria 2: Does the change in lease payments result in revised consideration for the lease that is substantially the same as, or less than, the consideration for the lease immediately preceding the change?

Criteria 3: Does the reduction in lease payments affect only payments originally due on or before 30 June 2021?

Criteria 4: Is there no substantive changes to other terms and conditions of the lease?

If the response to all the four questions above is "Yes", then a lessee can elect to apply the practical expedient to not account for the change in lease payments as a lease modification. In many cases, change in lease payments will then be accounted for as variable lease payment.

be assessed. Judgements needs to be applied. The rent concessions provided by lessor due to closure of offices and retail outlets pursuant to the government notified lockdown would generally meet the criteria of "direct consequence of COVID-19".

#### Criteria 2: Revised consideration

The second criteria for the expedient to apply is that the rent concession must result in revised consideration for the lease that is substantially the same, or less than, the consideration for the lease immediately preceding the change. For example, if the

compensate for the loss of time value of money due to deferral, for example, A lessor may defer the 3 months rental of a multiplex building amounting to INR 6 million for a period 9 months. Post deferral period, the lessee would pay INR 6.35 million to compensate for the loss of time value of money. So long as the increase in nominal cash flows reflects the time value of money, the lessee can still apply the expedient.

*Criteria 3: Concession affects the lease payments originally due on or before 30 June 2021*

The rent concession must reduce lease payments originally due on or before 30 June 2021. A rent concession that reduces lease payments after 30 June 2021 will disqualify the rent concession from the application of the practical expedient. The rent concession

### Let us look at the four conditions in detail:

#### Criteria 1: Direct consequence of COVID-19

A lessee can apply the practical expedient, when a rent concession occurs 'as a direct consequence of the COVID-19 pandemic'. The amendments do not provide further guidance on how this criterion should

rent concession reduces the nominal cash flows by INR 5 million in comparison to the terms of the lease prior to the change, it would satisfy this criteria. The amendments are not explicit as to whether the 'revised consideration' should be assessed based on nominal or discounted cash flows. In certain cases, a lessor may defer rentals for certain period with increase in nominal rentals to



A lessee can apply the amendments to Ind AS 116 for annual reporting periods beginning on or after 1 April 2020. In case a lessee has not yet approved the financial statements for issue before the issuance of this amendment, then the same may be applied for annual reporting periods beginning on or after 1 April 2019.



A lessee can apply the practical expedient, when a rent concession occurs 'as a direct consequence of the COVID-19 pandemic'.

must be assessed for the whole of the period and cannot be subdivided.

A rent concession would meet this condition if it results in reduced lease payments before 30 June 2021 and increased lease payments that extend beyond 30 June 2021.

*Criteria 4: No substantive changes to other terms and conditions*

The rent concession must not contain substantive changes to other terms and conditions of the lease. Extensions to the lease term, the introduction or modification of lessee and/or lessor options, or other changes in the scope of leases would disqualify the rent concession from the application of the practical expedient. Instead, the lessee would be required to apply the requirements applicable to lease modifications, if the change meets the definition of a lease modification. For example, If a lessor offered to reduce the lessee's monthly rent for office space by 50% for a period of six months due to COVID-19, but only on the condition that the lessee reduced its office space from 10,000 square feet to 5,000 square feet, then such concession would not be eligible for the practical expedient.

## How will the practical expedient benefit the lessee?

If a rent concession satisfies all conditions discussed above, the practical expedient is available to be applied, however, its application is not mandatory, i.e., a lessee can elect not to apply the practical expedient. All accounting policies relating to leases in the scope of Ind AS 116 are subject to the requirement in paragraph 2 of Ind AS 116, which requires an entity to apply Ind AS 116 consistently to contracts with 'similar characteristics and in similar circumstances'. The same principle should be followed by applying the practical expedient to similar leases.

If the lessee elects to apply the practical expedient, the lessee does not account for a rent concession as a lease modification.. In many situations, a lessee would account for the rent concession applying the requirements of Ind AS 116 para 38(b) i.e. as a negative variable lease payment.

Let's consider an example below to explain the impact of the amendment:

### Example 1: Forgiveness of lease payments -Impact of amendment

*ABC Limited leases a property from a lessor. As at 1 June 2020, Lessor grants ABC Limited rental waiver of 3 months due to the COVID-19 pandemic. This rent waiver was not part of the original terms and conditions of the lease. There are no conditions attached to the waiver.. Apart from the rent waiver, there is also a non-substantive change to terms of the lease contract. Assume that*

*all the four criteria to apply the COVID-19 practical expedient discussed above are met.*

*Query: How should ABC Limited account for the rent waiver?*

### Response:

Ind AS 116 defines lease modification as "a change in the scope of a lease, or the consideration for a lease, that was not part of the original terms and conditions of the lease(for example, adding or terminating the right to use one or more underlying assets, or extending or shortening the contractual lease term".

The rent concession provided to ABC Limited meets the definition of a lease modification (because it is a change in consideration for a lease that it not part of the original terms) and it would be accounted for as a lease modification, if the practical expedient is not elected by ABC Limited.



For example, A lessor may defer the 3 months rental of a multiplex building amounting to INR 6 million for a period 9 months. Post deferral period, the lessee would pay INR 6.35 million to compensate for the loss of time value of money. So long as the increase in nominal cash flows reflects the time value of money, the lessee can still apply the expedient.



A rent concession that reduces lease payments after 30 June 2021 will disqualify the rent concession from the application of the practical expedient. The rent concession must be assessed for the whole of the period and cannot be sub-divided.

### Example 2 : Accounting treatment of rent forgiveness based on illustrative numbers

Lessee ABC Limited enters into contract with Lessor LMQ to lease a retail space for 5 years . The lease commenced on 1 April 2018 and rental payments are INR 100,000 per month payable in advance. ABC Limited's incremental borrowing rate at commencement of lease was 5% per annum. There are no initial direct costs.

ABC Limited's business is significantly impacted by COVID-19 and both ABC Limited and Lessor LMQ negotiate a rent concession. On

31 May 2020, Lessor agrees to provide a concession whereby the Lessor forgives the rentals of the Lessee for next three months provided the retail space is closed due to lockdown.

Assuming that there are no other changes to the lease and lockdown continues till August 2020, ABC Limited shall recognize the credit of INR 100,000 in each month of June 2020, July 2020 and August 2020 with corresponding adjustment to the lease liability because the waiver is granted on condition that retail space is closed due to lockdown.

In contrast, if the ABC Limited was forgiven the lease payments at 31 May 2020 for payments due in June, July and August 2020 without a condition attached to the forgiveness (that is, irrespective of the closure of retail space due to lockdown), the lessee should recognise a gain for the portion of the lease liability that is forgiven (that is, for the present value of INR 300,000) on 31 May 2020.



For example, If a lessor offered to reduce the lessee's monthly rent for office space by 50% for a period of six months due to COVID-19, but only on the condition that the lessee reduced its office space from 10,000 square feet to 5,000 square feet, then such concession would not be eligible for the practical expedient.

|                                 | <b>Practical expedient applied (variable lease payment accounting as per para 38 of Ind AS 116)</b>   | <b>Practical expedient is not applied (lease modification accounting)</b>   |
|---------------------------------|---|---|
| <b>Lease liability</b>          | Reduced for the impact of revised consideration. Reduction is accounted when the waiver is granted. There are no conditions attached to the waiver. s | Reduced for the overall impact of revised consideration on the date of modification   |
| <b>Right-of-use asset</b>       | No impact   | Impact of lease liability reduction is adjusted with the right-of-use asset   |
| <b>Discount rate</b>            | No change   | The revised remaining consideration is discounted using a <i>revised discount rate</i> determined on the date of lease modification |
| <b>Effect on profit or loss</b> | Impact of reduction in lease liability is recognized in profit or loss when the waiver occurs   | No impact on lease modification. Future amortization of right-of-use asset and interest expense on lease liability will change      |



If the lessee elects to apply the practical expedient, the lessee does not account for a rent concession as a lease modification.. In many situations, a lessee would account for the rent concession applying the requirements of Ind AS 116 para 38(b) i.e. as a negative variable lease payment.

## Accounting treatment of rent deferral

A change in lease payments that only reduces payments in one period but proportionally increases payments in another does not extinguish the lessee's liability or substantially change the consideration of the lease. A lessee should recognise in profit or loss the present value effect that would result from discounting the revised payments using an unchanged discount rate at the time when the deferral is granted.

## Disclosure

An entity that applies the practical expedient must disclose:

- (a) that it has applied the practical expedient to all rent concessions that meet the criteria, or if not applied to all such rent concessions, information about the nature of the contracts to which it has applied the practical expedient; and
- (b) the amount recognised in profit or loss to reflect changes

in lease payments that arise from COVID-19-related rent concessions. Accordingly, rent concessions accounted for as negative variable lease payments in profit or loss must be disclosed separately from the effect of other variable lease payments included in profit or loss.

## Transition and effective date

Lessees will apply the practical expedient retrospectively, recognising the cumulative effect of initially applying the amendment as an adjustment to the opening balance of retained earnings (or other component of equity, as appropriate) at the beginning of the annual reporting period in which the lessee first applies the amendment. In the reporting period in which a lessee first applies the amendment, the lessee is not required to disclose the information required by paragraph 28(f) of Ind AS 8 Accounting Policies, Changes in



A lessee can apply the amendments to Ind AS 116 for annual reporting periods beginning on or after 1 April 2020. In case a lessee has not yet approved the financial statements for issue before the issuance of this amendment, then the same may be applied for annual reporting periods beginning on or after 1 April 2019.

Accounting Estimates and Errors.

A lessee can apply the amendments to Ind AS 116 for annual reporting periods beginning on or after 1 April 2020. In case a lessee has not yet approved the financial statements for issue before the issuance of this amendment, then the same may be applied for annual reporting periods beginning on or after 1 April 2019.

## Key takeaway

The amendment to Ind AS 116 will provide relief to lessees for accounting for rent concessions from lessors specifically arising from the covid-19 pandemic. While lessees that elect to apply the practical expedient do not need to assess whether a concession constitutes a modification, lessees still need to evaluate the appropriate accounting for each concession as the terms of the concession granted may vary. The practical expedient is not available for lessors. ■■■

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<https://cdn.ifrs.org/-/media/project/ifrs-16-covid-19/covid-19-related-rent-concessions-amendment-to-ifrs-16.pdf?la=en>

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## Covid-19 — Paycuts Weaken Internal Controls

*Covid-19 pandemic is causing firms to resort to pay cuts and lay-offs. This helps to save costs, but weakens internal control procedures (ICPs). Using the psychological contract theory, this article demonstrates that pay cuts cause adverse attitudinal changes in employees like lower commitment, diligence and effort. Many internal control procedures rely on people for effective implementation. If their attitudes are adversely impacted by pay cuts, then ICPs also weaken. Organisations should recognise this risk. In such a situation, internal audit function can play a very important role in re-enforcing the existing ICPs so that the firm does not suffer. Read more...*



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The ongoing pandemic has not only affected the financial performance of firms but has also impacted internal controls. Covid has triggered a series of responses by firms who are grappling with managing their costs. One key cost element that is being targeted is employee cost. Inadvertently, this has an impact on internal control procedures (ICPs).

According to the latest results of MyHiringClub.com and Sarkari-Naukri.info Layoff Survey 2020, 68 per cent of the employers surveyed have either started the layoff process or are planning to. The online survey covered 1,124 companies across 11 industry

sectors in 25 major cities. The survey was conducted between May 1 to May 10, 2020. Among the surveyed organisations, 73 per cent said they have plans to decrease the salary of employees, 57 per cent said this layoff is temporary, while 21 per cent said they are doing permanent layoffs for at least 2 years.

Pay cuts affect employee behaviour in multiple ways. Many ICPs are reliant on people charged with implementing them. If their behaviours are adversely impacted by pay cuts, then ICPs will also suffer. Organisations should recognise this risk. In such a situation, internal audit function can play



a very important role in re-enforcing the existing ICPs so that the firm does not suffer.

## Concept of Psychological Contracts and Its Violation

The effect of pay cut on employee behaviour can be best explained by a concept from the disciplines of psychology and employee relations, that has gained attention of academics and practitioners in the recent past. This is the concept of psychological contract developed by organisational scholar Denise Rousseau of Carnegie Mellon University in 1995. Psychological contract represents mutual beliefs, perceptions and informal obligations between an employer and an employee. It is distinguishable from the formal written contract of employment which, for the most part, only identifies mutual duties and responsibilities in a generalised form.

Psychological contract implies long term job security in return for hard word and loyalty. Employees believe that a promise has been made and consideration offered in exchange for it. But in uncertain times, like what the pandemic has created, it often makes it unclear as to what both the parties, the employer and employee owe each other, thus making fulfilling obligations more difficult. As a result there is increased likelihood of misinterpretation and psychological contract violation (PCV).

## Psychological Contract Violation and Internal Controls

The existence and effectiveness of internal control is often dependent on the supervisory managers. This brings about a certain dependency on people. When psychological contract is violated or perceived to be violated, behaviour of the supervisory manager may also change.

To illustrate this, let us consider an HR manager of a manufacturing firm. He would normally review the monthly payroll sheet prepared by his subordinates, in great detail but may do so with less care once he perceives a psychological contract breach. This has internal control and financial implications. Perhaps, an absent worker who should have had a loss of pay may get missed out. Even though the maker-checker mechanism exists, its effective functioning depends on the individual's diligence.

There are numerous instances that audit professionals can enumerate where the efficacy of the control is person dependent even though the process itself may be housed within an ERP. For example, a purchase manager till recently would scrutinise every purchase order to ensure that it has the best price and quantity in it. The substantiveness of his checks is personal to him. An ERP may ensure that POs go from the initiator to the purchase manager for approval, but it cannot ensure consistency in

his personal diligence. This subjectivity gets challenged when the psychological contract is breached. He may choose to check less, resulting in weaker controls.

## Diligence is Neither Absolute Nor Permanent

One could argue that diligence and care are part of the express contract of employment. Though it is, it is so in a generalised form. Both diligence and care is person dependent. The same employment contract offered to 2 appointees for identical roles may result in different outputs simply due to varying degree of personal application.

Hence, organisations that wish to implement pay cuts must make an assessment of the psychological contract violation and its effect on controls.

The table illustrates the common type of PCVs and likely employee reactions.

| <u>Organisational Justice Triggers</u> |   | <u>Attitudinal Outcomes</u>      |
|--|---|----------------------------------|
| Distributive justice issues            | → | Lower job satisfaction           |
| Procedural justice issues              |   | Lower organisational commitment  |
| Interactional justice issues           |   | Increased cynicism               |
|  |   | <u>Behavioural Outcomes</u>      |
|  |   | Lower organisational citizenship |
|  |   | Lower effort                     |

**Distributive justice** issues arise when outcomes are perceived to be unfairly distributed, such as financial rewards or paycuts. **Procedural issues** relate to perception of unfair application of procedures, such as promotions. **Interactional**

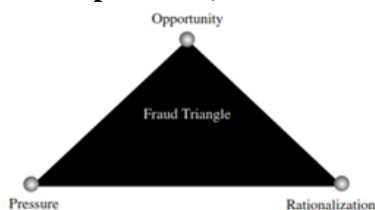
**issues** relate to employees perception of trust by superiors and the organisation when they feel they have been treated badly.

These changes in attitudes and behaviours may have implications for employee and organisational controls and performance.

### Psychological Contract Violation Leading to Incidence of Fraud

Several studies have indicated that perception of organisational justice and occurrence of fraud are significantly correlated. It was found that justice issues (perceived or real) were often used to rationalise fraudulent behaviour. Researchers found that fraud occurs when there is an incentive to commit it, rationalisation for justifying fraudulent behaviour and available opportunity.

These three situational factors are collectively known as the “fraud triangle”. The factor termed **pressure** (also



referred as incentive) relates to employee's motivation to commit fraud as a result of greed or personal financial pressure amongst a variety of reasons, while **rationalisation** denotes justification of fraudulent behaviour as a consequence of an employee's

lack of personal integrity, or other moral reasoning. The third factor, + refers to a weakness in the system where the employee has the power or ability to exploit, making fraud possible.

By applying this triangle framework, we could say PCV provides the rationalisation for a motivated employee to exploit a weakness in the internal controls to commit the fraud. The situation is amplified if the internal controls are further weakened as a result of PCV. Pay cuts, like other underpayment inequities are potent triggers for the triangle to complete making organizations more vulnerable.

Though, frauds are extreme cases, firms must guard themselves against it. An understanding of PCV helps in this direction.

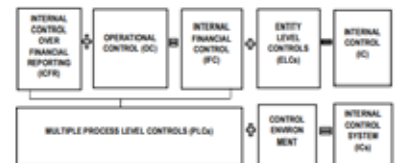
### Stronger Internal Control Procedures Mitigate Effect of Psychological Contract Violation

Be it a mundane outcome of lower effort or a serious fraud, organisations should be prepared for a variety of reactions when they trigger organisational justice issues. Re-enforcing the internal controls should therefore accompany decisions that can be perceived as psychological contract violations. Not doing so, could make the internal controls less effective.

Internal controls could broadly be categorised as Process Level

Control (PCLs) and Control environment.

SIA 120 (Standards on Internal Audit on Internal Controls) explains that the Control Environment includes the overall culture, attitude, awareness and actions of Board of Directors and management regarding the internal controls and their importance to the organisation. As can be seen from the diagram below, the control environment has an influence on the effectiveness of the overall Internal Control System since it provides the basis for establishing and operating process level controls (such as IFC and OCs) in the organisation.



In a PCV situation, the PLCs and the control environment suffer as discussed earlier. Deliberate effort should be made to strengthen their quality. Such re-enforcement could take the form of re-designing existing PLCs, placing additional controls and deepening the involvement of internal audit. Control environment could especially benefit from risk management training and focusing on corporate ethical environment.

It is widely accepted, that strong internal control procedures across all units

or areas of a firm improve the chances for errors and fraud to be detected and prevented. In particular, employee adherence to the set ICP (e.g. policies on approvals, authorisations, verifications and reconciliations) and segregation of duties need to be both well designed and to be strictly followed by employees.

In a recent study conducted in Australia, it was found that the relationship between employee perceptions of organisational justice and incidence of employee fraud to be moderated by quality of ICP. In other words, where the quality of ICP is high, perceptions of organisational injustice led to lower occurrence of frauds.

## Quality of Internal Control Procedures and Increased Importance of Internal Audit

Traditionally, Internal audit (IA) functions to assess the effectiveness of the organization's internal controls, and to report to management about where and how internal controls could be strengthened. Besides, auditing financial transactions, IA activities may also cover non-financial areas such as business unit processes, geographical areas and compliance with laws and regulations. Studies have shown that the IA plays a crucial role in the prevention and detection of fraud within an organisation by ensuring that the audit is well planned and that a proper

IA programme exists. Having a broad scope of audit operations and activities in particular is seen as vital for identifying areas where the controls are not fully functioning and procedures are unclear.

In recent past IA has become a primary agent for transformational change in helping users of systems improve the design of their controls. Studies have revealed that IA recommendations for improving ICP are critical for not only preventing control breakdowns but also in improving the overall quality of ICPs.

During uncertain times, like the current pandemic, firms will do well in expanding the scope of internal audit. The more extensive the scope of internal audit, the better it is. With an extensive IA function (i.e. the larger the number of audit activities), the likelihood of identifying the weaknesses in ICP are greater. Consequently, through better identification of ICP weaknesses, appropriate remedial measures may then be undertaken, leading to a higher quality ICP.

## Adverse Attitudinal Changes Impact Firms Differently

When PCV is anticipated, firms should actively seek to establish controls with lower person dependencies. Firms should first assess their type. The below matrix shows how

adverse attitudinal changes impact internal controls in different firms:

| STANDARD PRODUCTS           | TYPE 3 FIRMS- AVERAGE         | TYPE 4 FIRMS- LEAST           | SUPERVISOR RETENTION |
|-----------------------------|-------------------------------|-------------------------------|----------------------|
|                             | IMPACT                        | IMPACT                        |                      |
|                             | Low tech enabled controls     | Hi tech enabled controls      |                      |
|                             | More Standard products        | More Standard products        |                      |
| TECHNOLOGY ENABLED CONTROLS | TYPE 1 FIRMS- WORST           | TYPE 2 FIRMS- AVERAGE         |                      |
|                             | IMPACT                        | IMPACT                        |                      |
|                             | Low tech enabled controls     | Hi tech enabled controls      |                      |
|                             | More non-Standard products    | More non-Standard             |                      |
|                             | High/Low Supervisor retention | High/Low Supervisor retention |                      |
|                             | Low/Hi Supervisor retention   | Low/Hi Supervisor retention   |                      |

The above diagram illustrates that firms with low tech enabled controls, who make non-standardised products are more at risk from weakening internal controls. The situation gets aggravated if there is increased attrition in the supervisory cadre. Low tech enabled controls, results in heavy reliance on people dependent controls, which weaken as a result of pay cut induced attitudinal changes.

On a scale of riskiest to least risky, Type 1 firms would be rated riskiest, followed by Type 2, 3 and then Type 4.

Type 4 firms have several things going in their favour. Even when psychological contract violation triggers attitudinal changes, internal controls do not suffer. Significant technology adoption in controls means that processes are well developed and less people dependent, hence less subject to changes in people attitudes. Standard products and existence of seasoned supervisors help in making the internal controls even more resilient.

## Re-designing Internal Control Procedures by the Firm

A firm cannot alter the Standard/non-standard nature of the business beyond limited modification of its product mix. Neither can it address supervisor retention matters beyond a point, as it involves human expectations. Of the three parameters used in the above matrix, the one that the firm can very meaningfully alter is the technology adoption in controls. Focusing on this will yield results. In other words, Type 1 and 3 firms must endeavour to move to Type 2 and 4 respectively to effectively deal with PCV.

Key questions the firm must ask itself:

|   |
|---|
| Will their attitudes impact any ICPs?                           |
| Can internal audit mitigate risks arising from not systemising? |
| Have we determined people to be impacted by paycuts?            |
| Can the ICPs be systemised?                                     |

Type 1 firms that face the worst impact on their ICPs due to paycut caused attitudinal changes, benefit the most from higher quality internal audit.

## Internal Audit Improves ICP Quality during Adverse Attitudinal Changes

When employees display adverse changes in attitudes, internal audit can have a moderating effect not only in financial areas, but also

non-financial areas. Reduced diligence by a HR manager, while processing monthly attendance, can be compensated by internal audit. Or an internal audit of POs can make good the lack of attention of the purchase manager. This results in an improvement in the quality of existing ICPs.

Type 1 firms benefit the most because ICPs are less systemised than a Type 4 firm. Special improvement can be seen in relation to approval frameworks, authorisations of financial and non-financial activities, verifications and reconciliations.

## Pink Slips Add to ICP Weakness

In their attempt to curtail costs in light of a slowdown, firms not only have resorted to pay cuts, but also lay-offs. Though this serves a commercial purpose, its effect on internal controls should not be underestimated. Redundancies can affect internal controls in three ways:

- i. Elimination of a role that wholly or partly was a part of the internal control procedure
- ii. Moving the ICP as an “additional” activity to a continuing employee
- iii. Improper handover at the time of laying off employees

### i. Elimination of a role that wholly or partly was a part of the internal control procedure:

Individual employees often perform multiple tasks some

of which relate to internal control procedures. When such an employee is made redundant without moving the ICP to someone else, then it may weaken the control environment. Decision makers may look at the monetary cost saved by the role elimination without adequately assessing the benefits foregone by someone effectively managing the ICP. This aspect is more poignant in Type 1 firms where the tech enabled controls are not fully operational, or firms who are producing non-standard products.

### ii. Moving the ICP as an “additional” activity to a continuing employee:

This pertains to the decision makers recognising the ICP as an essential activity that should not be eliminated, but move it to someone as an added responsibility. This may cause a reduction in importance of the control. Though the control continues to exist, its quality may deteriorate due to reduced importance. Attention should be given not only to existence of controls, but also its quality.

### iii. Improper handover at the time of laying off:

Rushed lay-offs, many of them carried out at very short notice, means low quality handover. The leaving employee should explain what work is in his hand, to ensure that smooth transition takes place. The importance of this activity is often not understood. For example, an admin manager,

who had held up certain bills of a service provider, had good reason to do so. It is quite likely that request for payment of such old bills will now be made to the replacing manager who might end up passing it, if the handover was not done properly.

In the current pandemic, firms will do well to assess the impact lay-offs can have on ICPs.

## Work from home and ICPs

Firms have never tried work from home (WFH), the way they are trying it now. WFH is also having its effect on internal controls. For example, activities requiring more physical engagement like that of purchases will see their ICPs weaken. Especially so in firms that make non-standard products where the manager is constantly evaluating materials for the very first time.

Industries or activities that already have a high level of technology adoption could see their controls less impacted. But there is no room for complacency. It is premature to conclude that diligence and care is independent of the location of work. Sporadic examples come to light which suggest that, in Type 4 firms mere higher adoption of technology enabled controls does not ensure adequate diligence.

## Conclusion

Covid-19 pandemic has brought to us several unprecedented scenarios in various activities including internal controls. Be

it pay cuts, pink-slips or work from home, all have control implications for firms and their governance custodians. It is essential that firms recognise these implications.

The concept of psychological contract violation offers an excellent explanation linking pay cuts and its effect on employee attitudes. Understanding this concept is essential to taking steps to manage ICPs better.

Internal audit is emerging as an efficient tool in the hands of managements to mitigate impact of their decisions related to pay cuts, pink-slips and WFH. Internal audit can effectively identify the control weaknesses that have crept in due to such decisions and re-enforce ICP quality.

Auditors, on their part, now need to pay attention not only to traditional factors such as ICP quality but also to other organisational factors such as employee perceptions of organisational justice. Auditor may further advise their clients to undertake few positive things like encourage virtual bonding, provide better healthcare and insurance facilities, etc. to boost morale of their employees and promote a positive employee experience among employees instead of pay cuts and layoffs.

Maintaining high employee morale is certainly challenging during a global crisis, but it is not unachievable. The little things like strong communication, increased flexibility, and good access to resources – show that the company cares. Additionally,

when the crisis concludes, the company will be in a strong position to retain talent and hire new employees quickly. Having a reputation for supporting workers and keeping spirits high during a crisis will certainly boost the employer brand and support long-term success and keep all the Internal Controls intact. ■■■

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# Promises of Ruling in Advance

*“Bewilderment” appears to be the reaction of taxpayers and every other enthusiast of GST law, every time advance ruling pronounced is published in public domain. But in all fairness, consider the reasons for these reactions; and to discover them, one need not travel far. Where ruling adopts an interpretation that threatens the tax position subscribed by taxpayer empowered to self-assess tax liability, taxpayer’s angst is due to the imminent litigation lurking somewhere waiting to expose the tax position by scrutiny of returns or audit of records. Taxpayers need to entertain the possibility that they might still be right in their own interpretation of the law while leaving a given taxpayer-*



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*applicant contented with the certainty that a binding ruling procures. This article attempts to survey the concerns surrounding advance ruling in GST under Chapter XVII of Central Goods and Services Tax Act, 2017 and draw reader’s attention to the exact nature of “commitment” made in the law. Read on...*

## Commitment of Advance Ruling

### Desirous ‘Applicant’

“An applicant desirous of obtaining an advance ruling” has an option to secure a “binding ruling” that even the Government cannot resile from. Not even if a contrary interpretation is laid down by the highest Court. Advance Rulings have been deprecated for their departure from popular interpretation and for disharmony with views of distraught thought-leaders. A ‘desirous applicant’ cannot be bewildered by the outcome of the process consciously entered into knowing fully about the ‘accepted perils’



inherent in such a process. And just because another view is possible, that is no reason to seeking appellate intervention; an order must not only be wrong but so perversely wrong that except by intervention of higher Court, injustice will have triumphed, say experts.

### ***'Two views' to any argument***

It is as old as humanity, that when there is an argument, there will always be two (or more) views. It is this plurality that differentiates our race and perhaps responsible for perfection that we have achieved in the way we shape our society. But anyway, taxpayer who 'desires' to be an applicant is not blind to be possibility that 'the other view' may be taken. With this clear possibility, taxpayers cannot possibly be found to say that the view pronounced in the ruling was not in their reckoning when the application was filed. Opinion of experts in the field of GST, as compelling as it may be, do not enjoy binding force. It is this 'certainty' that taxpayers seek when they opt for a ruling in advance.

### ***'Reason' to seek ruling***

Business environment is riddled with uncertainty about many aspects and GST exasperates this situation in no small measure. Uncertainty is not that the interpretation is not 'unknowable' but the very real possibility that another interpretation may be canvassed that was not budgeted by the taxpayer. Margins in business are in single digits whereas GST



**Taxpayer who 'desires' to be an applicant is not blind to be possibility that 'the other view' may be taken. With this clear possibility, taxpayers cannot possibly be found to say that the view pronounced in the ruling was not in their reckoning when the application was filed.**

is in double digits and any slip in interpretation, could cost the business dearly. Taxpayers are not enthused about this new tax or any new tax, for that matter. When tax is inevitable, it must be unambiguous, that is their only 'ask'. And when this tax is creditable, any enthusiasm leftover evaporates instantly. Where taxes are non-creditable, there is some motivation to 'get it right' (this time at least) and for obvious reasons. Getting it right is not only about the rate of tax but six other things also. Business needs 'certainty', not about the interpretation but certainty of 'no contest' later.

### ***'Contest' by Administration***

Whether administration should canvass an alternate interpretation is a question in rhetoric because society looks to the Government to ensure justice *in rem*. That is, if one taxpayer were to get away with undue advantage, there is no denying that Government will have done injustice to the rest of

society; justice *in rem* demands inquiry *in personam*. Mindful of this responsibility, Government will (and must) challenge taxpayers' tax positions. Some may question reasons for investigative work undertaken, but that is misinformation, and in some instances, exception. It would be failure of administration if investigative work were liberal or lethargic.

### ***'Certainty' to taxpayer***

Society has accepted, in law made by elected representatives, that a 'binding' arrangement be entered into with specific taxpayers through the process of 'advance ruling'. Such a ruling obliges the State to accept the outcome of the ruling and therefore, the extent of revenue determined and without the expense of investigating the correctness of the self-assessed tax. Consequence of this arrangement is two-fold one, that a given taxpayer can proceed without fear of contest of after implementing the interpretation pronounced in the ruling and two, the rest of the society accepts no further cost of exploring the correctness of taxes paid but forfeiting the outcome of an alternative



**Getting it right is not only about the rate of tax but six other things also. Business needs 'certainty', not about the interpretation but certainty of 'no contest' later.**



If one taxpayer were to get away with undue advantage, there is no denying that Government will have done injustice to the rest of society.

interpretation. When the People have given themselves a law that offers this much certainty, there is no gainsaying about the merits of the People's will. Every taxpayer enters this 'option' in broad daylight and with eyes wide open seeking 'certainty'. There is not an iota of doubt that after a ruling is passed, administration will revisit the outcome pronounced.

#### ***'No fear' of precedent value***

Advance ruling bears no 'binding precedence' that other taxpayers must abide by or that can be cited by other taxpayers and expect adherence by administration. Rulings hold force over a very narrow compass but the grief that rulings seem to cause is the possibility that the interpretation taken in one ruling could 'set the cat among the pigeons' in cities and jurisdictions where tax compliance was a bliss unaware of this interpretation to identical facts. To expect this new law to be applied selectively or to leave long-standing practices unquestioned is disrespect to this new law. This law came about by no less than a Constitutional amendment and with a commitment to rid

society of the ills that many had resigned to live with. When a Chartered Accountant in Trivandrum can advise on GST implications of a transaction to a Company in Dibrugarh, it is nothing short of remarkable. If one is sure of the tax position then, a ruling is welcome to adopt a different interpretation yet leave this taxpayer unmoved. GST never promised 'no litigation' but it certainly promised 'clarity'. Clarity does not mean continuity of past tax practices and interpretation. Clarity means 'knowability'. Clarity for all taxpayers, but certainty, only for applicant to ruling.

#### ***'Surprised' by exposure of interpretation***

Interpretations never before imagined have been revealed by advance rulings. Taxpayers are surprised not with the possibility of the views taken (in a ruling) but that such a view was never considered taxpayer, right from Jul 2017. Nobody likes surprises, certainly not when it comes to tax treatment. If some exceptions are left out, for the most part, interpretations are not impossible because it is come out from reading the very words of the lawmaker. One is welcome not to subscribe to such an interpretation but certainly not expect to be free from challenge. Experts caution that advance ruling is patently erroneous and for this reason discourage taxpayers from seeking a ruling. But then, beeline that taxpayers are seen making to the Office of AAR

seems to indicate that public outcry may not be entertained in boardroom deliberations or are there so many indignant applicants. In either case, every taxpayer with their panel of expert advisors weigh binding certainty of a ruling against perils of prolonged litigation with uncertainty in the interregnum. Taxpayer-applicants have helped bring into the open, interpretations that were never in the reckoning, either due to missing the nuances of GST or its ability to accommodate such new interpretations. Courts will have final say about the interpretation application to other taxpayers on issues involved brought out by taxpayer-applicants.

#### ***'Banking' on competence imbalance***

Earlier laws will bear testimony of the vast dissimilarities in interpretation of essentially the same law on the same facts. Contractor in one State would be routinely assessed to tax on



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the basis of 'standard mark-up over costs,' whereas, in the neighbouring State be assessed on actual 'contract receipts' and admissible deductions for taxes already paid. Although GST is a new law, the imbalance remains in administrative skills to comprehend this new law and experiment possible interpretations. Taxpayers accustomed to the skill levels in one jurisdiction are no longer able to bank on them because advance rulings have exposed these new possibilities for administrators in all jurisdictions to be enlightened and to pursue.

#### ***'Anxious' about exchange of information***

Interpretation adopted in advance rulings are not only made public but possibly put through a process of 'sorting and sieving' to extract HSN-wise database of tax positions to challenge taxpayers with granular information tax position they currently employ. With extension of cooperation and collaboration amongst tax administrators of all States and Centre, there is no requirement

that every State must have its own 'subject matter experts'. Karnataka could offer administrative expertise in IT industry; Goa could offer expertise in Hospitality and Tourism industry while Maharashtra in Automotive industry. And collaboration between States with overlapping skills would be just another day at the office for tax administrators. And this is not even an unintended benefit to administration in a 'connected world'. In fact, exchange of information has uncovered no small share of revenue recently and taxpayers that have been at the receiving end of demands emanating out of 'intelligence gathered' will bear witness to this phenomenon. GSTN is committed to taking this exercise of gathering information and turning them into intelligible tax demands to a whole new level, not as something that is possible with the Common Portal but a duty towards society to uncover demands that slipped through the cracks in the unconnected world that GST has left behind.

#### ***Self-assessed tax 'almost' accurate***

While Government has come through on the demands of trade about 'minimum Government, maximum governance' by placing the entire responsibility of assessment on taxpayers, the fear now is about the perils associated with interpretational possibilities with this new law. With this new regime of self-assessment here to stay, taxpayers are compelled to 'unlearn and relearn' and come to an accurate understanding of the workings of this new law. For the most part, taxpayers have got it right with their understanding.

Leasing is now supply of services and high-seas sales are excluded from scope of supply itself. CGST paid in a host-State is not creditable in home-State even against CGST liability. So, for the most part, taxpayers have arrived at the correct interpretation of transaction in the umbral region of their operations but, there are transactions in the penumbra where taxpayers are attempting adventurous interpretation fuelled to some extent by the potential upside and a desire to 'set this law straight'. These transactions may not occur every day but do occur often enough to significantly affect the operating results of a business. Taxpayers are therefore not ready to sever their recourse to a ruling in advance.

#### ***'Critical' examination of GST law***

Vociferous calls are heard to abandon this forum, if there is to be any chance of securing a lawful and conscientious interpretation of this new law. These calls are from well-meaning enthusiastic thought-leaders and they deserve some latitude about their approach to criticism because, truth be told, pursuing the path that puts to test the boundaries of this law must be counted a service to the Nation. And this pursuit does not augur well with straight-



**Taxpayer-applicants have helped bring into the open, interpretations that were never in the reckoning, either due to missing the nuances of GST or its ability to accommodate such new interpretations.**

shooting that advance rulings have come to be associated with. The need is to ensure that GST law that has been welcomed by everyone, does not go untested for its vires as well as its boundaries. Constitution has laid boundaries that not even GST law can gloss over or overstep. GST must coexist with levies that have not been subsumed. And responsibility falls on the challengers who need Courts to grant them its indulgence.

### ***'Defects' in facts***

Applicants must share responsibility for failure on their part in bringing to the surface, the 'fact-in-issue' before the authorities. It is no one's case advance rulings are designed to be pro-revenue, even in the backdrop of the mountain of rulings to show. Failure in presenting facts can be fatal even before the highest Court and this cannot be brushed aside. Even if mischievous applications are ignored because discussing rulings on them is underserving of readers' consideration, there are scores of applications where the fact-in-issue does not appear to have been brought out for consideration of the authorities. Whether this failure was in presentation or its appreciation,



With this new regime of self-assessment here to stay, taxpayers are compelled to 'unlearn and relearn' and come to an accurate understanding of the workings of this new law.

there has been a failure that affected the outcome. And implications of such rulings perceived by other taxpayers, is heart-breaking. But the take-away from such rulings is that any anxiety about its ramifications is not entirely justified because of the scope available to distinguish them on law and facts. It is important to note that the blame over the outcome of these rulings have, in part, to be justifiably laid at the doorstep of applicants. When Courts are not free from failure of presentation, advance rulings cannot be protected from this misadventure nor be banished for the inevitable consequences.

### ***'Judiciousness' of Rulings***

Final criticism about this forum is that Executive functionaries occupy the position to pronounce these ruling. Decisions affecting civil consequences must be exercised judiciously. Being judicious is neither the exclusive privilege of the Judiciary nor being injudicious the presumption about the Executive. It is a responsibility that competent, qualified and experienced functionaries are carefully chosen and appointed to discharge. To say that there is not a single ruling that silenced naysayers with its brilliance in elucidating this new law, would be a plain lie. Consider that Executive functionaries are empowered to speak for the State and to grant the applicant a 'binding pronouncement' about the interpretation that the State admits unequivocally. And if the People, acting through their elected representatives, have authorised Executive functionaries to speak for the State, there may be little to find fault with such



Advance ruling is an option that well-informed taxpayers choose to avail because it holds the promise of certainty albeit with possibility of disappointment.

a policy resolve of the People. There is something that taxpayer-applicants seem to find comfort in this forum that motivates them to find their way past all the din around advance rulings.

### **Conclusion**

International Treaty law may be called to one's attention where sovereign authorities all too often enter into binding negotiations, with either a contract or policy resolution or State law affording the framework, that parties agree *a priori* to obey and comply even if it suffers from any interpretational misadventure. Sovereign Nations have been party to such binding negotiations because legal experts say, Courts cannot enter before commencement of *lis*. Taxpayer-applicants admit that 'certainty' has been their primary objective and 'accuracy' being a by-product.

Our Apex Court has not been shy of moving away from its own past and with great eagerness availed itself of the very next opportunity to lay down the interpretation that needs to be applied. If society has accepted this possibility of the Apex Court even, society must at least reconsider the direction of its criticism, if not its criticism itself, surrounding advance rulings in GST. Advance ruling is an option that well-informed taxpayers choose to avail because it holds the promise of certainty albeit with possibility of disappointment. ■■■

# Phasing Out of LIBOR

*For finance professionals the term LIBOR (London Inter-Bank Offered Rate) is not new. For last several decades this rate has been in use as benchmark in the global financial markets. Trillions of dollars of financial transactions and derivative products have been riding on this benchmark rate. LIBOR was considered as the gold standard of the financial world as a key reference rate for setting the interest rates charged on adjustable rate loans and a variety of mortgages. Over time however there have been certain happenings that eroded trust on this benchmark rate and it is currently in its sunset period. An attempt is made in this article to provide an overview of LIBOR and the transition towards alternate reference rates.*



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In 1984 the British Bankers Association (BBA) developed the BBAIRS (BBA Interest Rate Settlement Rates) upon request by the member banks for a reliable benchmark to be used for derivative transactions. Over a period of time this rate became London Inter Bank Offered Rate (LIBOR). From January 1986 LIBOR started officially publishing rates for three currencies USD, JPY and GBP. Through passage of time, two more currencies and further maturities were added. Currently rates are quoted for five currencies, USD, GBP, JPY, EUR and CHF.

LIBOR is the reference rate at which the panel banks indicate

that they can borrow short term wholesale funds from each other. LIBOR is thus an interbank unsecured rate. The rationale for wide usage of LIBOR in the financial world is due to the fact that it represents the terms, at which the world's largest and financially sound institutions are able to obtain funds on short term basis.

## Determination

LIBOR is determined daily, through a process in which the member banks in the panel, submit quotes at 11 AM (London time) in the morning for different currencies and maturities ranging from 1 day to 12 months, and an average of these rates so submitted is taken and published



after certain adjustments. The rates thus published are used as reference for a wide variety of financial transactions across the globe. **It is estimated that an amount of USD 300 - 350 trillion of financial instruments in corporate debt, mortgages, variable rate loans, consumer loans, municipal debt and other derivative products across the globe are linked to LIBOR as the reference rate.** LIBOR has become so important that it is sometimes referred to as the financial world's most important number.

### Rate rigging

In 2010 the British Financial Services Authority (FSA) launched an investigation into allegations of manipulative practices followed by the member banks for determining LIBOR. The Department of Justice of the US and the UK Serious Frauds Office (SFO) investigated the member banks. A lot of US financial instruments are linked to USD LIBOR rate and hence US had the authority to prosecute the member banks. The investigations revealed that derivatives traders and employees of the member banks discussed and provided artificial rates that would benefit the traders instead of the rates that the bank would actually quote to borrow money. Banks also coordinated with other banks, something akin to a cartel, to alter the rates as well. This made the benchmark rate to vary based on entirely the trader's positions sometimes. Further during the global financial crisis of 2007-08, banks artificially quoted lower rates to appear that they can borrow money at lower rates to make

the bank appear less risky and insulate itself from the global phenomenon. The investigation revealed facts which shocked the financial world as to the scale of wrongdoings and the benefits the member banks got by rigging the benchmark rate. It also shattered the trust the financial system had on the benchmark rates. Reports revealed manipulation could be traced as back as 2003. There were no proper checks in place in determination of the rates and the conduct of the member banks and the process relied on a self-policing mechanism left to the banks themselves.

Though many banks were allegedly involved in misreporting, banks like UBS, Barclays among others reached settlements with the authorities. As per the annual filings in 2012 by UBS with SEC it was mentioned that the company has agreed to pay Swiss francs 1.4 Bn in fines. Further certain banks agreed with the United States Department of Justice for paying fines in this regard.

Authorities in the US and UK have fined the banks in total to the tune of USD 9 Bn for rigging LIBOR. Criminal charges were also brought against individual traders and brokers for their role in manipulating the rates. Some high-level executives in the banks had to leave on these charges. In October 2019 the UK Serious Fraud Office (SFO) closed its investigation into the LIBOR scandal.

The results of investigation called for reform of the entire process. In 2012 FSA came out with a 10-point plan to reform the LIBOR, but did not propose

scrapping the rate. In 2014 the administration of LIBOR has been moved from BBA to Inter Continental Exchange (ICE). It has brought major reforms in administration of the rates. Even after these changes, the trust on LIBOR stood eroded and it was too late for it to continue as the benchmark rate that will determine the course of the global financial markets.

### Phase out

In July 2017 the UK Financial Conduct Authority (FCA) announced that LIBOR should be phased out by end of 2021. In April 2017, Bank of England as a part of its wider interest rate benchmark reform process selected a risk-free, Alternate Reference Rate (ARR) rate for GBP financial contracts and derivatives. The ARR benchmark was set based on Sterling Over Night Index Average (SONIA). Over a period of time various other Alternate Reference Rates (ARR) have also been developed by central banks across the world. Each of the five LIBOR currency jurisdictions are working on the new rates and addressing the transition related issues that will crop up.

ARRs will be different from LIBOR for the fact that ARRs are based on actual overnight transactions either secured or unsecured, whereas LIBOR is unsecured without any collateral and relies to a great extent on the judgment of the panel banks. This feature of judgement by banks and the associated subjectivity also became its main shortcoming over the years. The ARRs are also designed to be near risk free with no term premium.

The phase out of LIBOR will mean that each of these rates will be the benchmark for reference.

# Banking & Finance

| Geography   | Alternate Reference Rate                  | Regulator             | Nature    |
|-------------|---|-----------------------|-----------|
| UK          | Sterling Over Night Index Average (SONIA) | Bank of England       | Unsecured |
| USA         | Secured Over Night Financing Rate (SOFR)  | Federal Reserve       | Secured   |
| Switzerland | Swiss Average Rate Over Night (SARON)     | Swiss Exchange        | Secured   |
| Euro Zone   | Euro Short Term Rate (ESTER)              | European Central Bank | Unsecured |
| Japan       | Tokyo Over Night Average Rate (TONAR)     | Bank of Japan         | Unsecured |

We can take a look at two of these ARR's and see how they are different from LIBOR and the current shortcomings of these rates.

## Sterling Over Night Index Average (SONIA)

This is the longest in existence of all the ARR's identified. Though this rate was in existence for more than two decades, it was not normally used as benchmark. However, in 2017 it was selected as an alternate preferred risk-free rate as a replacement for LIBOR. The selection was made primarily because it is based on active liquid underlying market, average daily volume in January 2020 was around GBP 150 Bn. The rate is administered by the Bank of England (BoE). This is an unsecured overnight rate produced by the BoE and is calculated based on actual

transactions that banks pay to borrow pound sterling overnight from other financial institutions.

Though both LIBOR and SONIA are overnight rates, there are certain limitations to for the latter. SONIA is based on past data and is backward looking, where as LIBOR was based on expected rates and forward looking. The other major difference or drawback is that LIBOR is available across a range of maturities like 1 month, 3 months, 6 months and 1 year etc. SONIA currently does not have any term rates except for the overnight rate. Work is currently underway to arrive at term rates of SONIA for different maturities and these rates are expected to be available in Q3 2020. This coincides with the timeline that FCA has set, that no new LIBOR referenced loans can be issued after Q3, 2020.

## Secured Over Night Financing Rate (SOFR)

In 2014 the US Federal Reserve Board of Governors convened the Alternative Reference Rates Committee (ARRC) to identify an ARR to USD LIBOR. In 2017 the ARRC selected SOFR from various alternative rates and worked to on an implementation plan for the adoption of SOFR in all financial products that reference LIBOR. SOFR is based on overnight transactions in the USD repo market. The rate is produced by the Federal Reserve Bank of New York (FRBNY), and is based on an active well-defined market where daily volumes are in the tune of USD 700- 800 Bn. It is a transparent rate based on actual observable transactions.

As in the case of SONIA in the UK, there are major differences between LIBOR and SOFR which

| Parameter      | LIBOR                       | SONIA                               |
|----------------|-----------------------------|-------------------------------------|
| Administrator  | Panel Banks                 | Bank of England                     |
| Currency       | Multiple Currencies         | Pound Sterling                      |
| Term           | 7 different tenors          | Overnight (Term rates being worked) |
| Nature         | Forward looking / Judgment  | Backward / overnight data           |
| Credit Premium | Includes bank credit risk   | Near risk free                      |
| Term Premium   | Term premium based on tenor | No term rates currently             |

While ARR's have been identified, there are challenges on outright implementation and need to be considered for transition. Apart from the structural challenges some of the fundamental

problems can also arise from a liquidity and market depth perspective. LIBOR being a mandated rate, each bank had to submit rates across different tenors of yield curve. However,

the ARR's being based on actual data will suffer from the fact that there may be no actual transactions on certain tenors on a daily basis, which may become a handicap.

cause difficulties in transition from one rate for contracts extending after LIBOR phase out. SOFR is entirely based on transaction data, whereas LIBOR is based on both on market-data and also expert judgment by the banks of the future. Further SOFR is also a daily rate—what's called an overnight rate—vs. LIBOR's seven varying rates on terms of one day to one year. Yet another major difference is that LIBOR incorporates a built-in credit-risk component as it represents the average cost of borrowing by a bank. On the contrary, SOFR represents a risk-free rate because it is based on Treasury.

SOFR also doesn't have term rates and a yield curve across various maturities which LIBOR currently offers. The ARRC proposed that FRBNY could construct a forward-looking term rate based on SOFR derivatives markets once the transactions based on SOFR mature and have enough liquidity. Being based on repo rate data, SOFR is also influenced by the volatility of the money market and short-term spikes.



Though both LIBOR and SONIA are overnight rates, there are certain limitations to for the latter. SONIA is based on past data and is backward looking, where as LIBOR was based on expected rates and forward looking.

### Transition

The transition from LIBOR to the ARRs will be a herculean task and will require coordination across all areas of financial and regulatory environment. The transition will have far reaching implications across the globe. The impact of this change will be felt on accounting, reporting, regulatory, taxation, corporate finance and many other areas. Some of the areas of impact have been outlined below, but this is by no means an exhaustive list of impact.

Contracts based on LIBOR stretch far into the future after the discontinuation of the benchmark rate. Market estimates indicate that contracts to the extent of USD 900 Bn will mature beyond 2021. There are also some instruments with maturities stretching beyond 2030 and some bonds are perpetual with no maturity date. Financial institutions and clients have to assess the legacy contracts which run beyond 2021 and address them appropriately. The contracts may have to be amended to see that it continues beyond 2021 by appropriate fall-back clauses to refer the new ARRs. This will help renew the contracts beyond the sunset period.

### Accounting considerations

There are a number of accounting considerations that have to be taken care of, particularly around financial instruments. The change in rate from LIBOR to the new rate will amend the contract and it needs to be tested to see whether the terms of the modified contract are substantially different from the terms of the original contract. This will help



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in determination of accounting either as a modification or derecognition of the original contract and recognition of the new contract.

Where current debt related exposure is hedged, the hedge documentation needs to be updated to reflect the new benchmark interest rate. It also needs to be evaluated whether based on the new rate the hedging relationship needs to be discontinued, or whether amounts recognised in other comprehensive income needs to be recycled to the income statement.

The changes will have to be worked carefully to ensure that the debt covenants are not breached due to this change, in case of such a scenario,



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modification of the covenants with the lenders may have to be done to provide the required headroom.

Disclosure requirements under IFRS 7 have been amended to provide for disclosure of the interest rate benchmarks to which the company's hedging is exposed to, the extent of exposure to the rate, methodology of managing the transition, significant assumptions and judgements and the amount of the hedging instrument.

In September 2019, IASB published certain amendments to IFRS 9, IFRS 7 and IAS 39, which are mandatory for application from the financial year 2020. Standard setters are working on appropriate guidance to address the issues and facilitate transition.

## Valuation

LIBOR is a key component for building the discount rates in most valuation models for many purposes. Various financial assets, liabilities, testing for impairments rely on the discount rates which use LIBOR as the base. An assessment in general has to be made on the impact from shift in the base rates once LIBOR publication stops. The current models will have to be tweaked appropriately to address this change.

## Transfer Pricing

Over a period of time and after many judgements, the courts in India have taken cognizance of LIBOR as a benchmark for intragroup financial transactions. With the phase out of LIBOR approaching, it will further bring uncertainty into the process. The main challenge just like financial transactions will also be for the calculation of appropriate spread to be applied on the ARRs. The spread will need to factor customer risk, time period risk, liquidity premium and each of which may be subjective and litigative in the absence of the volumes in the first few years of implementation. Assessee will need to enter into new agreements perhaps with built in transition mechanism with associated enterprises and arrive at the rates that will be considered to be arm's length.

The Central Board of Direct Taxes (CBDT) on 20 May 2020 released the safe harbour rules for 2019-20. These rules

are also based on LIBOR and appropriate spread based on the credit rating of the associated enterprise. As new contracts will henceforth be based on ARRs as the reference rate, these rates have to be aligned to the SONIA / SOFR or other rates depending on the currencies and appropriate spreads may be worked by CBDT for publishing the safe harbour rules for 2020-21.

## FEMA

As per RBI master circular on ECB, limits are prescribed on All in Cost (AIC), with a limit of 450 basis points over the benchmark rate which is 6 Month LIBOR or any other interbank interest rate applicable to the currency of borrowing. In the revised scenario the RBI may have



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to specifically refer to the ARR and provide a spread on each rate. Further due to the difference in the nature of LIBOR vs the reference rate, the spread may have to be altered to factor the difference between a risk-free rate and the unsecured rate which LIBOR was. It may also happen that the ARRs for some currencies may not be quoting a 6-month rate, such considerations may also be needed.

Also, the existing ECBs which will continue beyond 2021 may have to be grandfathered to ensure that borrowings which were compliant in LIBOR regime don't find themselves non-compliant due to this change.

#### ***Mumbai Inter Bank Forward Rate (MIFOR)***

MIFOR published by the FBIL as authorised by RBI, is the rate that Indian banks use as

benchmark for setting prices on forward rate contracts and currency derivatives. It is calculated by using the overnight USD LIBOR rate and the applicable forward premium from the forex markets. Instruments linked to MIFOR will also be impacted. A suitable ARR will also have to be considered once LIBOR is phased out.

#### **Other Aspects**

The Indian Banks Association (IBA) has set up a working group in 2019 to assess the impact due to the end of LIBOR in 2021 and the transition plan. This is intended to help the member banks on various aspects of operations and also education of customers. IBA is preparing a guidance note for banks to address this.

It is estimated that contracts estimated to be around \$500 Bn may be negotiated between Indian companies and foreign lenders. Companies in infrastructure and housing finance use long term ECB for funding.

#### **Conclusion**

Every change is hard to overcome, the phasing out of LIBOR is which has been the benchmark and considered gold standard of the financial framework for decades will be even more challenging. The transition from LIBOR to ARRs will be a challenge of daunting proportions. This is the Y2K problem of the financial world only that the date this time will be 31 December 2021.

The stakes are high and the transition process has to be very effective to avoid chaos and confusion. In the limited time available COVID 19 has taken out the fair bit of attention of regulators and financial institutions. The sunset date as it stands is not changed based on the communication by FCA and BoE in March 2020. Despite the restructuring of the process and the controls around LIBOR after the financial scandal, these measures could not stop the death of the benchmark and the end is inevitable. All stakeholders have to plan themselves to ensure a smooth transition. While some degree of turbulence is a given, adequate preparation will help mitigate the hardships. ■■■



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# Growth of E-Commerce Business in India

*As accounting professional, we all have witnessed evolution of e-commerce in India and fancied their financial and economic model. E-commerce has transitioned to become a multi-billion industry covering variety of goods and services – perhaps each and every product is available online today. It has also helped the manufacturers, big and small to reach out customers in every nook and corner of the country bringing unthought-of logistical dimensions. This write-up is an attempt to understand various aspects of E-commerce. For theoretical reasons, it rehashes what is e-commerce, its working models and its types based on operations. The article also dwells on hurdles in e-commerce that is further bifurcated into operational challenges and technical challenges. Aspects related to accounting and compliances applicable to e-commerce in India are also provided. Read on...*



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E-commerce in India is growing rapidly and according to some estimates, it is likely to grow to 200 Billion US dollars by the year 2027. E-commerce businesses have immense growth potential which is evident from countless e-commerce businesses that have started in last decade. It is also estimated that e-commerce will grow at 27 per cent CAGR over next 4-5 years with online grocery as the biggest growth driver. E-commerce is also seen as solution to some of the policy challenges being faced by the country. Recently, National Small Industries

Corporation Ltd. has launched an e-commerce platform in the form of [www.msmeshopping.com](http://www.msmeshopping.com) for Micro, small and medium enterprises as a means of aatmanirbhar bharat.

In simple words E-Commerce is “selling or buying of goods and services” over the Internet. E-Commerce is grown up version of traditional commerce in which the complete flow of transactions “right from selecting the product till the payment processing” is completed over internet. The scope of the e-commerce



is unlimited. Practically every thinkable product or service is offered through e-commerce. E-commerce transactions in case of physical goods are supported by efficient supporting logistical infrastructure. At the same time many services are also being delivered over internet for speedy delivery overcoming physical barriers. In these times of pandemic, education and medical services are extensively using internet for delivery.

E-commerce based on “their model of work”, can be classified as follows:

- i) Direct selling of own goods and services on the internet is the first working model in e-commerce. In this model own goods and services are sold online through website or other available means. For Example, A designer is selling designer clothes through own exclusive website. This form of E-Commerce is commonly known as E-Shops. Example of E-shops are microsoft.com, dell.com, puma.com, etc.
- ii) Marketplace on internet is another model of E-commerce is another model. Here buyers and the sellers are gather on a platform – e market place - to buy or sell their goods and services. For Example, Amazon, Flipkart, Snapdeal, etc. where sellers can register and sell their products or services to the customers who visit

that website. This form of e-commerce is called the electronic retailing or E-tailing.

### Type of E-Commerce

- i) **B2B:** In B2B (Business to Business) e-commerce, trade takes place between two businesses such as between manufacturer and wholesaler or wholesaler and retailer. For example, www.msmemart.com is a B2B market platform by National Small Industries Corporation Ltd.
- ii) **B2C:** B2C (Business to Customer) e-commerce means offering the goods and services directly to the customer. Examples of B2C e-commerce are flipkart.com and Spotify.com.
- iii) **C2C:** C2C (Customer to Customer) e-commerce brings customers together on a platform to buy and sell from each other. Examples of C2C e-commerce are olx.com and quickr.com.
- iv) **C2B:** C2B (Customer to Business) e-commerce is a platform that facilitates customers to contact the businesses to buy the goods and services. Examples of C2B e-commerce are upwork.com and cj.com (Commission junction).

### Hurdles in E-commerce

#### Operational Challenges

- i) **Product Assortment:** Product assortment means picking the right product and services to offer to

the buyer. E-commerce gives option to choose from countless alternatives but also limits the way of buying, that is by viewing the images of the products and reading the description of product and services. Hence product assortment is a new challenge to offer only those products and services that fit best to the customer.

- ii) **Pricing Model:** Best pricing is a strategy that will bring back the buyer to the website. But what is the best price? is the biggest question. E-commerce provides effortless price comparison option which makes “Best Pricing” more important to sustain in the market. Also, e-commerce refrains the right to bargain from the customer. Accordingly, Pricing Model should be designed in way that makes the buyer satisfied with the prices even without bargain.
- iii) **Order Management:** E-commerce had shattered the barrier of “time to shop” and nowadays one can go for shopping at anytime from anywhere. This brings another challenge for the e-commerce is order management. Each order is important, and it should be delivered on time is the key to success in e-commerce but on the contrary order management is the also biggest challenge for e-commerce. Only way

to handle this challenge is to treat “*Every Customer as GOD*” and treat every order on maximum priority without thinking about any other factor like order value, order volume, order margin etc.

#### iv) **Customer Management:**

E-commerce had made buying quite simple and easy for the customers. Customer is expecting services related to the product, delivery, refund, return, replacement, warranty, copyright, and other similar issues on priority. High-level Expectations by customers makes customer management extremely complex and critical task. *The only way of customer management is “minimal human interventions” and “more automation”.*

### Technical Challenges

#### i) **Data Management:**

E-commerce is largely based on the data collected during each transaction. What makes data management complex?

- Size of data that becomes bigger and bigger as the business grows.
- Dynamic Nature of data that will keep the data updated on real time basis.
- Storage of data Structure which provide the data whenever asked for.

- Sorting and filtering of data to keep only valuable data.
- Backup of data to keep it secure.

Data should be management in way that optimizes its size by eliminating all the non-useful information and stored in robust and secured structure.

#### ii) **Data Privacy and Security:**

Customer’s shares various personal data while transacting on e-commerce platform. Personal data is private information of the customer merely shared for completing such transaction. To keep customer’s trust intact each detail collected should be stored and processed in a way in which our own personal data is stored.

Following practices should be followed to comply with the best practices or regulations related to data privacy:

- Explicit consent must be taken from the customer for the data to be collected.
- Notice must be given to the customer stating the purpose, use and time for retention of data to be collected.

### Risk Associated with E-commerce Business

Risk is intrinsic in every business so as in e-commerce. To mitigate the risks of e-commerce, first step is to understand the associated risks.



E-commerce had made buying quite simple and easy for the customers. Customer is expecting services related to the product, delivery, refund, return, replacement, warranty, copyright, and other similar issues on priority.

- User’s Privacy:** Customer’s data could be compromised even after having a secure database due to reasons like hacking, cyber-attack, security failure, and malware, etc. and could be used for spamming, identity theft and unsolicited marketing.
- Data integrity, authentication, and transactional risk:** E-commerce delivers the order only if the basic authentications like phone number and e-mail verifications are completed. But who knows that even after such verification the order placed is genuine or not, actual sale or not, payment will be received or not? Nobody knows until the order is successfully delivered there is always a question mark on the data integrity, authentication, and transactional risk.
- Customer Loyalty:** Customers are more loyal towards the brands not towards the e-commerce services. Customer can easily switch to competitors because every e-commerce

provides the same product or services what customer buys. Then what makes the customer loyal towards e-commerce? An extra effort by e-commerce to retain the customer can minimize this risk in the competitive world of e-commerce but cannot reduce it to zero.

- iv) **Product Warehousing and Logistics:** “Committed to timely delivery” is one of the most satisfying attribute of e-commerce and to manage this e-commerce have to assume the risk of loss, theft, damage and many more associated with managing the warehousing and logistics. In case e-commerce does not manage warehouse and logistics than at every order e-commerce have to confirm the seller about the inventory and wait for seller to confirm the product as “ready to ship” and then fully depend on logistics partner to pickup the order and deliver on timely basis but even after so much struggle e-commerce cannot guarantee delivery on time. *Hence risk associated with product warehousing and logistics management*

“Customer’s data could be compromised even after having a secure database due to reasons like hacking, cyber-attack, security failure, and malware, etc. and could be used for spamming, identity theft and unsolicited marketing.

*is directly proportional to guarantee to on-time delivery.*

- v) **Customers Charge backs and Disputes:** In e-commerce rate of customer dissatisfaction is higher owing to the fundamental property of e-commerce i.e. no personal interface between the seller and the buyer which begins various confusions and misunderstanding. These confusions and misunderstandings give rise to disputes and charge backs which not just results in monetary loss but also the brand image loss.
- vi) **Intellectual Property Rights:** Photo’s, video’s, content, description, logos as well as the products could be copied easily or violate someone else’s intellectual property.

## Accounting and Compliances

### Accounting

Accounting of E-commerce companies are guided by the Accounting Standard issued by ICAI and notified by the Ministry of Corporate Affairs. Accounting standard 9 “Revenue Recognition” and Indian Accounting Standard 115 “Revenue from contracts with customer” will be applicable for E-commerce companies to recognize the revenue. As of now, there is no specific accounting standard issued by ICAI for “Accounting for E-commerce”. Recently, an Exposure Draft is issued by ICAI specifically for “E-commerce accounting” as ICAI proposes a comprehensive Guidance Note on accounting in e-commerce and cloud services.

### Revenue Recognition

**Service Sector:** As per Accounting Standard-9 and

“Committed to timely delivery” is one of the most satisfying attribute of e-commerce and to manage this e-commerce have to assume the risk of loss, theft, damage and many more associated with managing the warehousing and logistics.

Indian Accounting Standard -115, in case of selling services revenue will be recognized only when the services are provided and there is no uncertainty on the realization of payments from the customer.

Further as per Ind AS-115, if a certain amount is received at the time of proving services for after support services like maintenance of software after the sale then revenue relating to support services will be recognized only after providing the support services.

**Wholesaling and Retail Sector (E-tailing):** As per Accounting Standard-9 and Indian Accounting Standard-115, in case of selling goods revenue will be recognized only when the ownership/ control of the goods is transferred and there is no uncertainty on the realization of payments from the customer. In the case of sale of goods through e-commerce, an option of return is given which impacts the revenue of the e-commerce. Accordingly, there are two ways to book the revenue:

- Revenue should be booked after the expiry of the return period or



In e-commerce rate of customer dissatisfaction is higher owing to the fundamental property of e-commerce i.e. no personal interface between the seller and the buyer which begins various confusions and misunderstanding.

- b. Revenue should be booked after deducting the average amount of return.

## Recognition of Customer's Liability

Customer's liability means the amount that belongs to the customer until the service/ goods are not provided, but this amount cannot be treated as an advance in case the e-commerce is not the actual seller.

For Example, an e-commerce platform is providing online digital content from a registered seller to a particular customer. E-commerce is accepting only prepaid orders. Till the time content for customer is not delivered by the seller, the amount received by the platform will be lying in a nodal account named as "Customer's Liability".

When the seller transfers the content to the customer only then e-commerce platform will transfer the amount from Customer's Liability Account to Seller's Account after booking its service income for providing e-commerce platform.

## Compliances

E-commerce is working under a bundle of regulatory requirements in India. Apart from the normal regulatory requirements that an e-commerce must comply with GST Act, Income Tax Act, ROC regulations if registered as a company, etc. following are the regulations specifically apply on e-commerce in India:

- i) **GST -TCS: GST-TCS means tax collected as a source as per the GST Act. As per section 52 of the CGST Act, 1% of the sale amount (Sale Price excluding GST) transferred to sellers should be deducted as GST-TCS and paid to the GST department on seller's behalf.**

**For Example:** On an e-commerce platform, one of the sellers is selling handmade pen for Rs. 1000. While transferring the payments to the seller, the platform provider must deduct GST-TCS @1% i.e Rs. 10 and deposit the amount with the government on behalf of seller.

- ii) **TDS:** As per the Finance Act 2020, section 194O was introduced to impose TDS liability on e-commerce operators. From 1st October 2020 onwards, every e-commerce must deduct 1% TDS on the gross amount transferred to the seller for providing goods services through the e-commerce platform.

If the seller registered on the e-commerce platform is an Individual and HUF, then TDS should not be deducted if the sales amount transferred to the seller is up to ₹ 5 lacs in a year provided the PAN or the Aadhar is provided.

TDS Rate will be increased to 5% in case PAN or Aadhar is not provided by any seller.

**For Example:** One seller is providing tuition services through online platform to a student. After rendering the services by the seller, platform provider will transfer the fee amount to the seller after deducting TDS @1% if the total amount transferred in a year is more than Rs. 5 lacs. If PAN or Aadhar is not available seller, the TDS rate will be 5%.

## Endnote

Just like traditional commerce businesses e-commerce businesses have their own nuances, advantages, challenges, and risks that run together. E-commerce has also entered the area finance in a big way. Banking services, investments, loans, share transactions, tax advisory and



Customer's liability means the amount that belongs to the customer until the service/ goods are not provided, but this amount cannot be treated as an advance in case the e-commerce is not the actual seller.

many more services are being delivered using internet. With technology moving evolving at stupendous speed and with the potential of Indian economy, e-commerce business shall continue to grow. ■■■

# Creating Reliable Manufacturing Ecosystem

*It's estimated that as of 2019, India has crossed a mind boggling 500 Million smartphone users. In other words, every third person in India, owns a smartphone which is probably replaced every three years. The number of users has only been increasing exponentially and will continue to do so for the foreseeable future. How big a piece of this enormous pie is enjoyed by Indian companies though, one might ask. The answer is, "crumbs". Can something be done? Answer is 'yes'. Read on...*



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The market share of Indian companies in this fast-paced growing multi-trillion-dollar Industry, is almost negligible. And why is that? Is it due to lack of accessible technologies? Surely, it can't be due to a lack of skilled labour - given the number of professionals including technological experts our country churns out each year? Or is it because India is a cost-sensitive market and we simply prefer to import cheaper phones – perhaps. I believe it is due to the lack of a reliable manufacturing ecosystem for Indian Manufacturers. In this article, I hypothesize and simulate a concept I'd like to call “most favoured manufacturer” and explore

how a few key fiscal changes can create a thriving ecosystem for localized manufacturing which will eventually lead to a leveled playing field for Indian manufacturers, or perhaps even result in leading the market? Government is already trying to facilitate manufacturing in a big way. As professionals we Chartered Accountants can also encourage industry, wherever feasible, to adopt diversification and growth strategies in the area to save critical foreign currency, boost Indian business and generate employment.

Earlier this year, there have been many discussions lauding India for becoming the second largest mobile phone manufacturing



hub in the world. While it certainly sounds positive, is there more to this than meets the eye?

Let's quickly take a few steps down the history lane, right back to 2014, when India's smartphone manufacturing sector was more or less limited to mobile phone devices in a Semi Knocked-Down state, where almost all parts of a phone were assembled in countries such as China, Taiwan, South Korea or Vietnam and thereafter, imported to India. The "manufacturing" was limited to the insertion of battery and perhaps, adding locally sourced headphones along with a charger to the handset box. Fast forward to 2017, India had advanced to Completely Knocked-Down manufacturing, where parts such as screens, PCBs, semi-conductors, camera modules came in from different suppliers and were put together in assembly-oriented factories in India. They were then sold as "Made in India", which begs the rhetoric were they really "made in India" though?

Things have improved ever since and there are brands, which claim that 99% of the phones sold in India are locally built, with as much as 65% parts sourced locally. India has also started exporting devices to Bangladesh and Nepal. However, that's not the case for all manufacturers. Most manufacturers still rely on importing many parts (>50%), and why wouldn't they? Some of the most important

components in manufacturing a phone, namely, the chipset, memory and display, require advanced technologies, uninterrupted supply of water and electricity, and highly skilled & trained employees to run high end automated machines. India's infrastructure needs a major upgrade to meet the required standards.

The government for one, has taken cognizance of this issue. Earlier this year Hon'ble Finance Minister Smt. Nirmala Sitharaman unveiled an INR 50,000 crore package targeting large smartphone makers operating in India, with performance-linked incentives (PLI) that involve cash benefits subject to meeting local sourcing, manufacturing and sales targets. While the local manufacturing of parts would require huge upfront investments by smartphone manufacturers/part suppliers, the benefits would be enormous in terms of savings in import duty cost which usually varies from 15-30

percent depending on the part imported, country of origin and a few other parameters.

That being said, the question remains - **"What more can we do to incentivize local sourcing of parts?"**

I believe the usage of our current multi-level tax rate structure (GST), as a carrot and stick approach towards the manufacturer would really help address this issue. Currently, 18% GST is levied on smartphones, but what if a manufacturer sourced 60% of its components locally?

On this premise, we progress with our vision which then, leads us to the question, ***could we perhaps grant them the status of "Most Favoured Manufacturer (MFM)"*** and levy only 12% GST on their phones – thereby making it a better value for money product compared to its counterparts, who continue to import more than 40% of the parts required? I've simulated a scenario to understand this better:

| Manufacturer | % of parts sourced locally | MFM level | Tax Rate applicable | Explanation           |
|--------------|----------------------------|-----------|---------------------|-----------------------|
| Company A    | Up to 59                   | -         | 18                  | No benefits under 60% |
| Company B    | 60 – 69                    | 1         | 12                  | Some benefits         |
| Company C    | 70 – 79                    | 2         | 9                   | More benefits         |
| Company D    | 80 – 100                   | 3         | 5                   | Maximum benefits      |

While the staggered rate benefits would certainly allow competitive pricing, that alone wouldn't be necessarily enough. The MFM program should also have a

vocational training centre where technical training for manufacturing and assembly of parts and electronics can be imparted onto semi-skilled workers. The training would

not only upskill the semi-skilled labour available in our country but also generate employment opportunities, possibly in millions. The same can also be funded partly by the manufacturer and subsidized by the government. Perhaps some technical and management institutes can also be encouraged to start focussed courses to impart special skills.

Government could allocate SEZ like zones specially for manufacturers enrolled under this program. Infrastructure in such SEZ should be built by the government and leased out to manufacturers for a pre-determined period upon promise of fulfilling mutually accepted production quantities. Along with infrastructure, decade long direct tax holidays too could incentivize and attract more manufacturers to join the program.



While the local manufacturing of parts would require huge upfront investments by smartphone manufacturers/part suppliers, the benefits would be enormous in terms of savings in import duty cost which usually varies from 15-30 percent depending on the part imported, country of origin and a few other parameters.

The idea is to have a multipronged approach which is required and now inevitable to make India Aatmanirbhar in manufacturing mobile phones.

## How to arrive at the percentage of goods sourced locally?

The ideal solution would be, to have a value-oriented approach. That is to say, if the value of materials sourced locally is more than sixty per cent of total material cost, the manufacturer gets a MFM status. In other words, the total landed cost of materials imported should be more than forty per cent of the total cost of materials.

For example, let's say Mobile Manufacturer "X" procures the following:

1. Chipset from South Korea supplier (SKS) for paying the equivalent of INR 2,000 per piece (CIF + Customs)
2. Memory and Screen from China paying a total of INR 3,000 per set (CIF + Customs)
3. The rest of the parts are sourced locally at a total of INR 8,000 per handset.

This brings the total cost of materials (pre-assembly) to INR 13,000. The total landed cost of imported materials is INR 5,000, or 38.47%. This also means, the value of materials sourced locally, amounts to 61.53%, thereby granting manufacturer X - the status of MFM level 1.

This would not just allow him to sell his finished product by levying a lower GST rate of 12%, but would also motivate him to



The training would not only upskill the semi-skilled labour available in our country but also generate employment opportunities, possibly in millions. The same can also be funded partly by the manufacturer and subsidized by the government.

procure more locally – thereby moving up in the MFM level scale. He may request his SKS to move some production capacity to India. Also, it would be safe to assume that manufacturer X isn't the only Indian customer of the SKS, and hence would wish to tap a potentially bigger market. Sure, the establishment costs would be considerably high – but so would the continuous savings in shipping & insurance.

In a realistic scenario, a manufacturer will have a number of phones in his portfolio – the percentage of locally sourced materials for his portfolio collectively will be considered for MFM status.

## How would the government grant MFM status?

A seamless and efficient process, with minimal manual intervention, is what we should strive for. This would ensure that the dreadful era of License Raj is left behind once and for all.

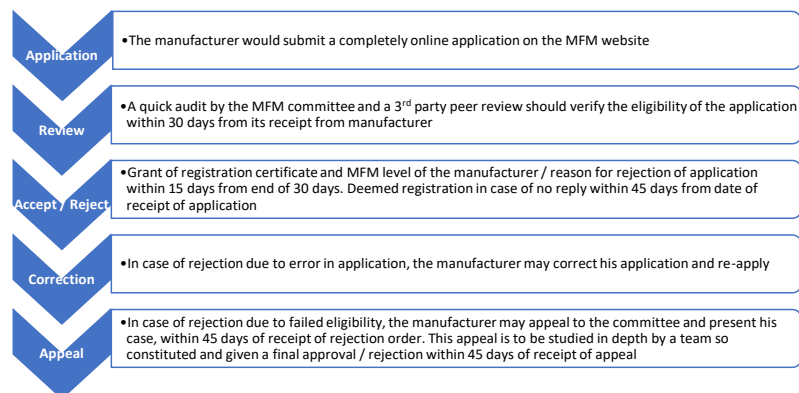
This would involve the formation of a dedicated committee spearheaded by a high ranking official with several Industries and legal experts as the ideal

# Industry-Specific



Government could allocate SEZ like zones specially for manufacturers enrolled under this program. Infrastructure in such SEZ should be built by the government and leased out to manufacturers for a pre-determined period upon promise of fulfilling mutually accepted production quantities.

team to manage the show. The following could be the steps on a macro-level:



MFM Status once given, will be valid for the financial year. For the next year, the manufacturer would have to file a self-declaration to renew the MFM status. There can be an audit by the MFM committee into the declaration within 30 days of the filing of it to confirm/reject the status.

If the manufacturer believes there's a change in MFM level, he would have to submit an application a fresh application for said new level and the procedure will follow. Until such time, old MFM level and rates will be applicable.

## How do we integrate it with our existing tax laws?

This program can be and should be, consciously merged into existing GST laws with adequate caution, while leveraging the existing framework of the "Make in India" campaign. An inclusion to the existing HSN rate charts is probably one of the few changes required in terms of integrating it with our existing laws.

## How does it impact the end consumer?

For the sake of simplicity, let's simulate, presuming the phones manufactured by all these companies are of comparable quality/features and are currently priced at 11,800/-

program, would also avoid import duties ranging from 15-30%, & pay GST at lower rates to their local governments instead reducing their cost further.

## Endnote

Our existent Foreign Direct Investment (FDI) policy permits 100% FDI under the automatic route for electronics manufacturing. This, for the uninitiated, is the equivalent of a red carpet invitation into electronics manufacturing companies. This also leads us to the question, "Why to stop at smartphones - why not all electronic devices?" In my opinion, manufacturing has already begun its transformation as a "robot intensive automated process" and not a labour intensive process of the yesteryears. We need to catch the train before it leaves the station forever. If we are able to carefully weave this program into the "Make in India" campaign, we could see several possible tangible and immediate benefits:

- Multiple new MSMEs and countless employment opportunities
- Real Manufacturing in India, not just assembly
- Big boost to the "Make in India" campaign and

| Manufacturer | MFM level | Old GST Rates | MFM GST Rates | Phone Rates under MFM |
|--------------|-----------|---------------|---------------|-----------------------|
| Company A    | -         | 18            | 18            | 11,800                |
| Company B    | 1         |               | 12            | 11,200                |
| Company C    | 2         |               | 9             | 10,900                |
| Company D    | 3         |               | 5             | 10,500                |

As evident from the above, Company D's phones will be flying off the shelves faster than they can be produced, while company A would eventually have to change their modus operandi to level the playing field.

The companies that source most parts locally under the MFM

Transform India into an export hub

- Reduced reliance on other countries
- Reduced cost to end users

*"The pessimist complains about the wind; the optimist expects it to change; the realist adjusts the sails."* - William Arthur Ward ■■■

# The Intangible Personality Drivers

*Cognitively, human mind is always active trying to tick off some thoughts in life. The factors that the mind may be paying attention to can be about completing education, settling down financially, having family, good friends, pursuing hobbies, do in social work. All these factors have a common purpose of trying to achieve something sensible, responsibly. Chartered Accountants, the professionals who are always dealing with various forms of intangibles, though of different kind, it can be his/her own assets, clients' contexts, assets and so on. Let us explore some different dimensions of the word 'Intangibles' in context of corporate governance, financial reporting and auditing. Read on...*



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COVID-19 pandemic is a real challenge for the economy at macro level and to our jobs, health and our lives, at micro level. On the flip side it is also allowing all of us a good opportunity to reflect on various matters including our aspirations, skills, career path and so on. One of the common thing that one might be doing, is to be spending more time on Internet. Talking about the two sets of accounting standards – Accounting Standards (AS) and IFRS as converged and adopted in India i.e. Ind AS. One of the area that always attracts attention is Intangible Assets that is covered by Accounting Standard (AS) 26 for a long time and now by Indian Accounting Standard (Ind AS) 38.

When we start reflecting on this,

a natural question comes to mind that before standard was issued, were there no intangible assets that entities possessed? Definitely, entities had these assets, but there were no set principles for identification, recognition, measurement and disclosure in the form of an accounting standard.

Now let us explore some interesting elements of the concept "Intangible". In general parlance, it is understood as something "unable to be touched; not having physical presence". Going by the dictionary meaning the term intangible means, "something that does not exist as a physical thing but is still valuable to a company". In comparison to intangible



assets, tangible assets are easy to identify, recognise and measure as we can see and touch them. Tangible assets includes all things on this earth that can be physically possessed and their ownership be established.

One of the greatest differentiators human beings have when compared to other animals is the ability to use their mind to a different level. Evolution tells us that living in society, forming an association, doing some commercial activity, etc. are some of the things human (rightfully called “Homo Sapiens”) learned and established over a very long period of time covering thousands of years.

Mental ability, power of thinking, is something natural to humans and is influenced by the surrounding circumstances, education at home (called “*Sanskaras*” in Indian culture), learnings from school, colleges and work environments. These factors vary from person to person and therefore, these factors impact differently to each person in terms of nature, timing and extent. This leads to each one of us having a unique personality. This uniqueness gives an edge to some persons to acquire superior position over others. For example, one with higher mental ability would try to do some new things, bring innovations, establish new businesses, write new legislature, create art or music, etc.

Generally, humans want some purpose, a cause for their existence, wish to use their skills and abilities, possess physical goods or money and have emotions and empathy. Humans want to define their personality by deliberately doing or avoiding certain activities. These things in a way form a substratum of the personality.

Suppose a person has worked in a multinational company at a very senior position for say 20 years, what all “Intangible” things are likely to be associated with his / her personality? Knowledge and experience about the industry, processes, systems, work culture, handling people at various levels, handling multiple crisis situations and so on. These are knowledge elements that sets him apart from others. It is easy to comprehend that these abilities are innate qualities that are over and above the educational and professional qualifications and enable a person to make quality decisions, lead the organisation, innovate and perform better than others.

Accounting, auditing and management practices are essentially imperfect sciences and are called behavioural sciences and hence, one rule cannot apply to every situation. That creates the challenge of valuing these intangibles. Now let us see how ‘intangible’ factors are inherent to few factors of any organisation that an accountancy professional ends up dealing with, daily.

**Corporate Governance:** It is a very broad term which deals more with behavioural and ‘soft’ aspects like trust, fiduciary capacity, surveillance, ethics, enterprise risk management, internal controls, succession, value creation and preservation, brand, sustainability, etc.

We know that all the above terms cannot be cardinally quantified, i.e., one cannot assign a number to it. Like it is difficult to say that X organisation’s governance is at seventy percent level. This is because there cannot be a definition of what constitutes hundred per cent.

A careful look at the developments in Corporate



Generally, humans want some purpose, a cause for their existence, wish to use their skills and abilities, possess physical goods or money and have emotions and empathy.

Governance requirements, disclosures across the globe reveals that more and more entities are moving beyond traditional financial statements, i.e., number crunching. This is because studies have proved that there is a positive correlation between the good governance and the long term ROI / value creation by the entity. The human mind (rather brain) always thinks of safety, risk, surety, returns, cash flow timings, ethics, transparency which cannot alone be addressed by the financial statements. Hence, we end up having sections in the annual report on management discussion and analysis, risk management, sustainability reporting, social responsibility and environmental reporting, etc.

So going forward, Chartered Accountants will be required to deeply understand the cognitive and behavioural aspects, the importance of emotional quotient, curiosity quotient in order to work on the engagements like enterprise risk management, certifying corporate governance, framing sustainability reporting systems, and so on.

The novel form of assurance in future, could include cultural audit, mandatory governance audits, sustainability certification and much more.



A careful look at the developments in Corporate Governance requirements, disclosures across the globe reveals that more and more entities are moving beyond traditional financial statements, i.e., number crunching.

**Financial Reporting:** Financial statements are an outcome of processing business transactions in a disciplined manner and in compliance with the applicable regulatory framework. Chief Financial Officer's role has undergone a sea change in terms of areas they contribute. It includes business enabling role in the areas of strategy, MIS, risk management, internal controls, compliances and various other things.

Coming back to our 'intangible' discussion, for a peculiar organisation the hygiene or quality of financial reporting depends on organisational governance and culture, organisation structure, roles and responsibilities of a CFO, level of internal controls invoked through an ERP system and supporting manual internal controls, level of documentation of processes, adoption of internal control framework, internal audit system, skillsets of people involved in the financial reporting, involvement of third party service providers like outsourced accounting/ shared service centres, payroll processing, etc. All these things create a unique understanding about the financial reporting

system of an entity and is often termed as 'Control Environment'.

So any change in above variables will impact the level of experience that financial reporting team members will gain over a period, thereby creating different level of 'intangible assets' for each of them.

Another important area for finance function is application of judgement in making reasonable estimates and in interpretation of statutes, agreements and contracts. With technology advancement, more and more activities are performed by machines. So there is good amount of accuracy and predictability possible for certain accounting estimates. For example, warranty provision. Unlike traditional methods of provisioning, one can have a clear trail of parts fitted into a machine, i.e. specification, make year, supplier name, batch name, plant code, etc. and therefore easy to arrange for a product recall and thereby estimate warranty expenses using defined matrices. However, the judgement is required in establishing reliability of this data and factoring the level of innovation planned to reduce defects and similar prospective actions in determining the warranty provision amounts.

Suppose an entity in India is planning to acquire another entity in a different geographical area. It requires contextual application of valuation models, applicable corporate laws, transfer pricing laws, land laws of entity being acquired, accounting standards, so on and so forth. These combinations are not readily available and hence, are intangible skills.

So from the skillset point of view, an entity needs people who are good at processes,

people having good grip on numbers, aggregators, risk managers who can challenge the obvious, those who know the accounting standards, etc. A Chartered Accountant is well positioned to assume these roles and serve the entity, either internally or externally in form of assurance engagements or audit engagements. But a conscious investment is needed to understand comprehensive business perspective around financial reporting and not be confined only to the debit/ credit, accounting standards and disclosures. Also experience of dealing with experts like valuation specialists, lawyers, etc. would be an icing on the cake.

**Auditing:** It is one of the most complex and onerous jobs wherein auditors' main duty is to opine on the financial statement's truth and fairness. Knowingly or unknowingly we are continuously judging people, situations, scenarios and are forming opinions. The process behind formation of personal opinions is invisible and largely driven by our subconscious mind. But when it comes to forming a professional opinion, the auditors have scope of work mandated by the law/ customer, audit work governed by the auditing standards and various accounting standards and pronouncements.



Another important area for finance function is application of judgement in making reasonable estimates and in interpretation of statutes, agreements and contracts.

Though large amount of efforts have been put nationally / internationally on codifying the standards by a logical division of the audit steps and technology helping auditors in a big way to analyse huge amount of data, forming an audit opinion will continue to be a matter of professional judgement.

Consider a context of auditing a large listed IT company which has 10,000 plus employees, ERP systems and sub-systems, 2 foreign entity acquisitions completed recently, has got 30 subsidiaries across geographies and publishes its audited results on a quarterly basis as per I-GAAP, IFRS and US GAAP. The revenue register consists of 650,000 line items and similar are the line items for procurement and employee reimbursement data put together.

In the above context, the typical audit will start with understanding the entity's business, do a risk assessment, identify internal controls that mitigate these risks, support that effort with substantive testing, and then form an opinion on the fairness of the financial statements.



A conscious investment is needed to understand comprehensive business perspective around financial reporting and not be confined only to the debit/credit, accounting standards and disclosures.

It may sound simple, but when it comes to applying these things to a complex situation as stated above, there cannot be one correct way of doing the audit. There could be multiple ways of gathering the required evidences and thereby an assurance though underlying auditing framework is common. Largely factors like audit team skillsets, availability of experts, documented audit methodology, its enforcements and on top of everything, experience of the person in-charge of an audit play a role.

control systems, have negative intentions. Then the auditor will put a likelihood to these possible risks and try to see controls built by the entity.

Likewise, an auditor is always connecting the dots of his experience, auditing framework and client context in mind which is an invisible process. That is '*intangible asset*'. The beauty is, an intangible asset '*put to use*' as above, instead of getting amortised actually gets appreciated - audit by audit.

### Future Auditors' personalities

#### Polymath Person

- A polymath is someone who has expertise and knowledge in a number of different subjects e.g. blockchain, analytics, regulations, etc.
- Rather than solely specialising in specific areas, polymaths can identify and assess different risk areas and collaborate across disciplines. They are your innovators, early adopters and self-starters.

#### Purple person

- Purple people are those who possess a mix of business and technology skills, going further than the traditional knowledge of an IT Auditor.
- The combination of business and technology is becoming prevalent in Audit as organisations are looking for increased efficiency and value from audits.

Let us take a small example of assessing employees' risk of committing a fraud in the above stated entity. It requires an auditor to consider frauds happened so far, going through past internal audit reports, level of enforcement of ethics, related internal controls in respective processes wherever human intervention is involved. Before getting into the risk assessment *per se*, an auditor has to define a canvas in his mind that he is talking about an entity having more than 10,000 people, i.e., so many minds. Statistically, there would be some percentage of people who will be trying to exploit gaps in the internal

So in near future a shift will happen to include more qualitative and soft aspects in the audit. Naturally, skillsets which would be required to perform these audits would be different and would have to be achieved by the Chartered Accountants.

We tried to look at how 'Intangibles' i.e. human mind, experience, skillsets play a role in Corporate Governance, Financial Reporting and Auditing. For a Chartered Accountant, a conscious and constant efforts on building these 'Intangible Assets' would help in a long way to be successful and remain relevant. ■■■

# The Companies (Amendment) Act, 2020 - Highlights

*The Companies (Amendment) Act, 2020 (herein after referred to as 'the Amendment Act') got the assent of Hon'ble President as on 28<sup>th</sup> September, 2020 and is thus operative since that date. It was passed by the Lok Sabha on 19<sup>th</sup> September, 2020 and by the Rajya Sabha on 22<sup>nd</sup> September, 2020.*

*There are amendments in 61 sections in the Act and 4 sections have been newly inserted which includes the provisions for Producer Companies.*

*Major thrust of the Amendment Act is decriminalisation of the Companies Act, 2013 and lightening rigour of penalties. Besides relaxation of CSR law, remuneration to non-executive directors in case of inadequate profits, producer companies, periodic financial results by non-listed companies, etc. has been provided.*

## Highlights of the Companies (Amendment) Act, 2020

**Decriminalisation of the Companies Act: Reduction in Penalties:** Decriminalisation of the Companies Act, 2013 is main feature of the Amendment Act. It removes the imprisonment for various offenses, substitutes fine by penalty in and reduces amount of payable as penalty across the board. In certain minor omissions, etc. penal consequence has been omitted.

One-person companies, small companies, start-up company or Producer Company, or by any of its officer in default, or any other person in respect of such company, then such company or person shall be liable to one-half of the penalty specified and it is subject to a

maximum of ₹ 2.00 lakh in case of a company and ₹ 1.00 lakh in case of an officer who is in default or any other person.

**Exclusion from listed companies:** The Amendment Act empowers the Centre in

consultation with the SEBI, to exclude companies issuing specified classes of securities from the definition of a "listed company". The objective of according such flexibility is to exclude such private companies that list their debt securities on a recognized stock exchange upon their allotment on private placement basis, thereby falling under the definition of a 'listed company' under the Act. This can incentivise private companies seeking listing of their debt securities.

**Exemptions from filing resolutions:** The Act requires companies to file certain resolutions with the Registrar of Companies, which include resolutions of the Board of Directors of the company to borrow money, or grant loans. However, banking companies are exempt from filing resolutions passed to grant loans or to provide guarantees or security for a loan. This exemption has been extended to registered nonbanking financial companies and housing finance companies.

**CSR:** The Act exempts companies with a CSR liability of up to ₹ 50 lakh a year from setting up CSR Committees.

Contributed by Corporate Laws and Corporate Governance Committee of ICAI. Comments can be sent to [clcg@icai.in](mailto:clcg@icai.in) and [eboard@icai.in](mailto:eboard@icai.in)

**Benches of NCLAT:** The Act provides to establish benches of the National Company Law Appellate Tribunal in New Delhi.

**Direct listing in foreign jurisdictions:** The Act empowers the central government to allow certain classes of public companies to list classes of securities in foreign jurisdictions.

The Companies (Amendment) Act, 2020, inter alia, provides for the following as per its Statement of Objects, namely:—

- to decriminalise certain offences under the Act in case of defaults which can be determined objectively and which otherwise lack any element of fraud or do not involve larger public interest;
- to empower the Central Government to exclude, in consultation with the Securities and Exchange Board, certain class of companies from the definition of “listed company”, mainly for listing of debt securities;
- to clarify the jurisdiction of trial court on the basis of place of commission of offence under section 452 of the Act for wrongful withholding of property of a company by its officers or employees, as the case may be;
- to incorporate a new Chapter XXIA in the Act relating to Producer Companies, which was earlier part of the Companies Act, 1956;
- to set up Benches of the National Company Law Appellate Tribunal;
- to make provisions for allowing payment of adequate remuneration to nonexecutive directors in case of inadequacy of profits, by aligning the same with the provisions for remuneration to executive directors in such cases;
- to relax provisions relating to charging of higher additional fees for default on two or more occasions in submitting, filing, registering or recording any document, fact or information as provided in section 403;
- to extend applicability of section 446B, relating to lesser penalties for small companies and one person companies, to all provisions of the Act which attract monetary penalties and also extend the same benefit to Producer Companies and start-ups;
- to exempt any class of persons from complying with the requirements of section 89 relating to declaration of beneficial interest in shares and exempt any class of foreign companies or companies incorporated outside India from the provisions of Chapter XXII relating to companies incorporated outside India;
- to reduce timelines for applying for rights issues so as to speed up such issues under section 62;
- to extend exemptions to certain classes of non-banking financial companies and housing finance companies from filing certain resolutions under section 117;
- to provide that the companies which have Corporate Social Responsibility spending obligation up to fifty lakh rupees shall not be required to constitute the Corporate Social Responsibility Committee and to allow eligible companies under section 135 to set off any amount spent in excess of their Corporate Social Responsibility spending obligation in a particular financial year towards such obligation in subsequent financial years;
- to provide for a window within which penalties shall not be levied for delay in filing annual returns and financial statements in certain cases;
- to provide for specified classes of unlisted companies to prepare and file their periodical financial results;
- to allow direct listing of securities by Indian companies in permissible foreign jurisdictions as per rules to be prescribed.

## Amendments related to Chapter IX and X

### Section 129 A- Specified unlisted entities to prepare and file periodical financial statements

- New section 129A has been introduced, which prescribes specified classes of unlisted companies to prepare and file their periodical financial results at a frequency that will be notified later. This provision is aimed at improving corporate governance.

### Section 135- Corporate Social Responsibility

- **Set Off of excess amount-** Provision for setting off excess amount against the requirement to be spent under CSR activity for such number of succeeding financial years and in such manner, as may be prescribed.
- **Exemption from forming CSR Committee-** Where the amount to be spent by a company for CSR activity does not exceed fifty lakh rupees, the requirement for constitution of the Corporate Social Responsibility Committee shall not be applicable and the functions of such Committee provided under this section shall, in such cases, be discharged by the Board of Directors of such company.
- **Penalty for Non Compliance-** Penalty provision has been inserted for non-compliance of provisions of Corporate Social Responsibility.

### Section 140- Removal, Resignation of Auditor and Giving of Special Notice

**As per Section 140 (3),** If the auditor does not comply with the provisions of sub-section (2), he or it shall be liable to a penalty of fifty thousand rupees or an amount equal to the remuneration of the auditor, whichever is less, and in case of continuing failure, with further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees.

## Amendment Introduced

In section 140 of the principal Act, in sub-section (3), for the words “five lakh rupees”, the words “two lakh rupees” shall be substituted.

**Maximum liability for an auditor has been reduced from ₹ 5 lakh to ₹ 2 lakh.**

### Section 143- Powers and Duties of Auditors and Auditing Standards

#### Section 143 (12)

Notwithstanding anything contained in this section, if an auditor of a company in the course of the performance of his duties as auditor, has reason to believe that an offence of fraud involving such amount or amounts as may be prescribed, is being or has been committed in the company by its officers or employees, the auditor shall report the matter to the Central Government within such time and in such manner as may be prescribed:

Provided that in case of a fraud involving lesser than the specified amount, the auditor shall report the matter to the audit committee constituted under section 177 or to the Board in other cases within such time and in such manner as may be prescribed:

Provided further that the companies, whose auditors have reported frauds under this sub-section to the audit committee or the Board but not reported to the Central Government, shall disclose the details about such frauds in the Board's report in such manner as may be prescribed.]

#### Section 143 (15)

If any auditor, cost accountant or company secretary in practice do not comply with the provisions of sub-section (12), he shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees.

## Amendment Introduced

In Section 143 of the principal Act, for sub-section (15), the following sub-section shall be substituted, namely:—

“(15) If any auditor, cost accountant, or company secretary in practice does not comply with the provisions of sub-section (12), he shall,—

- (a) in case of a listed company, be liable to a penalty of five lakh rupees; and
- (b) in case of any other company, be liable to a penalty of one lakh rupees.”

**Maximum liability for an auditor has been reduced from**

- a) **For listed company- from ₹ 25 lakh to ₹ 5 lakh.**
- b) **For any other company- from ₹ 25 lakh to ₹ 1 lakh.**

## Section 147— Punishment for Contravention

2) If an auditor of a company contravenes any of the provisions of Section 139, Section 143, Section 144 or Section 145, the auditor shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees 1[or four times the remuneration of the auditor, whichever is less]

## Amendment Introduced

In Section 147 of the principal Act,—

- (a) in sub-section (2), the words “, Section 143” shall be omitted.

**Punishment of Section 143 has been provided in Section 143 itself, therefore, it has been omitted in Section 147.**

**Therefore, the contravention of Section 143 does not fall under Section 147.**

## Other Amendments in Brief:

### 1. Related to Penalty/ Fine/ Imprisonment:

Out of 66 amendments, 45 amendments are relating to amendment in penalty clause of Sections like:

- In some sub-sections, penalty has been omitted
- Many places imprisonment has been substituted with penalty
- In some places penalty/ fine has been decreased etc.

### 2. Section 129A – New Section Introduced – Periodical Financial Result by unlisted companies:

The Central Government may, require such class or classes of unlisted companies, as may be prescribed,—

- (a) To prepare the financial results of the company on such **periodical basis** and in such form as may be prescribed;
- (b) To obtain approval of the Board of Directors and complete audit or limited review of such periodical financial results in such manner as may be prescribed; and
- (c) **File a copy with the Registrar within a period of thirty days of completion of the relevant period** with such fees as may be prescribed.”

**Objective:** Purpose of insertion of this section is to empower Central Government to provide by rules such class or classes of unlisted companies to prepare periodical financial results of the company, audit or limited review thereof and their filing with Registrar within thirty days from the end of that period as specified in the rules.

### 3. Corporate Social Responsibility Section 135:

In sub-section (5), after the second proviso, the following proviso shall be inserted, namely —

“Provided also that if the company spends an amount in excess of the requirements provided under this sub-section, such company may set off

such excess amount against the requirement to spend under this sub-section for such number of succeeding financial years and in such manner, as may be prescribed.”

**Objective:** Purpose to allow companies, which have spent an amount in excess of the requirement provided under the said sub-section, to set off such excess amount out of their obligation in the succeeding financial years in such manner as may be provided by rules.

#### 4. Independent Director Section 149:

In section 149 of the principal Act, in sub-section (9), the following proviso shall be inserted, namely:—

“Provided that if a company has no profits or its profits are inadequate, an independent director may receive remuneration, exclusive of any fees payable under sub-section (5) of section 197, in accordance with the provisions of Schedule V.”

**Objective:** a new proviso which provides that an independent director may receive remuneration, if a company has no profits or inadequate profits in accordance with Schedule V of the Act.

#### 5. Remuneration to Directors- Section 197:

(3) Notwithstanding anything contained in sub-sections (1) and (2), but subject to the provisions of Schedule V, if, in any financial year, a company has no profits or its profits are inadequate, the company shall not pay to its directors, including any managing or wholetime director or manager or any other non-executive director, including an independent director, by way of remuneration any sum exclusive of any fees payable to directors under sub-section (5) hereunder except in accordance with the provisions of Schedule V.

**Objective:** if a company fails to make profits or makes inadequate profits in a financial year, any non-executive director of such company, including an independent director, shall be paid remuneration in accordance with Schedule V of the Act.

#### 6. Right Issue of Shares Section 62:

The offer shall be made by notice specifying the number of shares offered and limiting a time not being less than fifteen days “or such lesser number of days as may be prescribed” and not exceeding thirty days from the date of the offer within which the offer, if not accepted, shall be deemed to have been declined;]

#### 7. Section 117(3)(g):

In sub-section (3), in clause (g), for the second proviso, the following proviso **shall be substituted**, namely:—

“Provided further that nothing contained in this clause shall apply in respect of a resolution passed to grant loans, or give guarantee or provide security in respect of loans under clause (f) of sub-section (3) of section 179 in the ordinary course of its business by,—

- a. a banking company;
- b. any class of non-banking financial company registered under Chapter IIIB of the Reserve Bank of India Act, 1934, as may be prescribed in consultation with the Reserve Bank of India;
- c. any class of housing finance company registered under the National Housing Bank Act, 1987, as may be prescribed in consultation with the National Housing Bank; and.”

#### 8. Producer Company – Chapter XXIA

Provisions of Producer Company introduced after Section 378 as 378A to 378ZU.

**Objective:** to insert a new Chapter as Chapter XXIA relating to Producer Companies on similar lines as provided in the Companies Act, 1956.

Detailed amendments made by the Companies (Amendment) Act, 2020 are available at the link <https://resource.cdn.icaai.org/61305clcg290920a.pdf>

## Formulating, Amending and Implementing Ind AS in line with IFRS Standards issued by IFRS Foundation: An Update

### I. Indian Accounting Standards

**(1) Revised Publication on Indian Accounting Standards: An overview:** The ICAI's Publication *Indian Accounting Standards: An Overview* contains an overview of various aspects related to Indian Accounting Standards (Ind AS) such as roadmap for the applicability of Ind AS, carve-outs from IFRS/IAS, changes in financial reporting under Ind AS compared to financial reporting under accounting standards, summary of all the Ind AS etc. Pursuant to amendments made to Ind AS vide notification dated July 24, 2020, the said publication has been revised in order to capture the amendments made to Ind ASs. The amendments, wherever considered appropriate, have also been made in summary of Ind AS section, the major differences between AS and Ind AS and Ind AS and IAS/IFRS. The Publication can be assessed at <https://resource.cdn.icai.org/61361asb-indas-overview2020.pdf>.

**(2) Amendment in Ind AS corresponding to amendments in IFRS Standards due to IBOR Phase II project of IASB (Amendments in IFRS 4, IFRS 7, IFRS 9, IFRS 16 and IAS 39)**

The IASB has finalised its response to the ongoing reform of inter-bank offered rates (IBOR) and other interest rate benchmarks by issuing a package of amendments to IFRS Standards. The amendments are aimed at helping companies to provide investors with useful information about the effects of the reform on those companies' financial statements. The amendments complement those issued in 2019 and focus on the effects on financial statements when a company

replaces the old interest rate benchmark with an alternative benchmark rate as a result of the reform.

The amendments in this final phase relate to:

- changes to contractual cash flows - a company will not have to derecognise or adjust the carrying amount of financial instruments for changes required by the reform, but will instead update the effective interest rate to reflect the change to the alternative benchmark rate;
- hedge accounting - a company will not have to discontinue its hedge accounting solely because it makes changes required by the reform, if the hedge meets other hedge accounting criteria; and
- disclosures - a company will be required to disclose information about new risks arising from the reform and how it manages the transition to alternative benchmark rates.

These amendments are effective for annual reporting periods beginning on or after 1 January 2021, with early adoption permitted. Corresponding amendments in Ind AS are under consideration and the Exposure Draft of amendments in relevant Ind AS will be issued shortly.

**(3) Online Certificate Course on Ind AS through Digital Learning Hub Platform of ICAI launched**

After completion of Twelve (12) batches of Online course on Ind AS wherein around 1200 members have been successfully trained, registration for new batches have been opened.

Contributed by Accounting Standards Board of ICAI. Comments can be sent to [asb@icai.in](mailto:asb@icai.in). Refer [https://www.icai.org/post.html?post\\_id=14058](https://www.icai.org/post.html?post_id=14058) for Ind AS – IFRS Standards Convergence Status, [https://www.icai.org/post.html?post\\_id=15770](https://www.icai.org/post.html?post_id=15770) for Ind AS Implementation Guidance

## II. IFRS Foundation & IASB: Stakeholder Consultations

### (A) Exposure Draft on Primary Financial Statements

On 17<sup>th</sup> December 2019, the International Accounting Standards Board (IASB) issued an Exposure Draft titled as 'General Presentation and Disclosures' for comments by September 30, 2020. As per the proposals set out in the Exposure Draft, existing IAS 1, Presentation of Financial Statements, will be replaced with a new standard with substantial number of changes which is expected to lead to fundamental changes as to how entities will be required to present information within their primary statements, particularly within the statement of profit or loss.

In this regard, a Global Webinar was organised by the Accounting Standards Board (ASB) of ICAI jointly with International Accounting Standards Board (IASB) of IFRS Foundation on *Better Communication in Financial Reporting: IASB Exposure Draft on Primary Financial Statements* on September 11, 2020. From IASB, Ms. Sue Llyod, Vice Chair, IFRS Foundation and other Technical Staff participated. The webinar was structured into 3 sessions, each one started by technical discussion by IASB followed by panel discussion amongst eminent panel speakers comprising renowned professionals from auditor, investor and user category. Around 1750 participants attended the global webinar from India, UK, US, Dubai, Nepal, Philippines, Singapore and Hongkong.

ASB of ICAI got actively engaged in this project of IASB by submitting its detailed comments on the proposals of aforesaid Exposure Draft after considering the comments received from the stakeholders, webinar participants, public at large and Study Groups constituted by the ASB at Delhi and Mumbai for formulating comments. The comments submitted to the IASB can be assessed at <https://resource.cdn.icai.org/61301asb-ed-gpd.pdf>. The Exposure Draft had 14 specific questions on proposals contained therein. Broad comments of the ICAI on the main proposals of the Exposure Draft were as under:

- ICAI agreed with introduction of subtotals in the Statement of Financial Performance

including subtotal of operating profit or loss which clearly discloses performance information on the face of the Statement of Financial Performance and would reduce diversity of practices.

- Divergent views gathered from stakeholders on proposals of ED with regard to bifurcation of associates and joint ventures as integral and non-integral have been communicated to IASB for appropriate consideration.
- ICAI agreed with IASB's proposals on inclusion of Management Performance Measures (MPMs) in the financial statements as it would enhance reliability, transparency, and consistency of MPMs. However, as IASB has restricted MPMs to the subtotals of income and expense in the Statement of Financial Performance, it has been recommended to the IASB to change the terminology "MPM" to may be "MPM related to Statement of Financial Performance" reflecting usage of this term in a restrictive manner. Certain other clarifications were sought on the proposals such as relevance of MPMs for private unlisted companies.
- Guidance and clarity has been sought from IASB on various aspects for the benefit of stakeholders.

### (B) IFRS for SMEs

In January 2020, the IASB issued the second comprehensive review of the *IFRS for SMEs* Standard (Request for Information) asking for views on its approach to updating the *IFRS for SMEs* Standard—the simplified accounting standard for small and medium-sized entities. The objective of the consultation is to seek views on whether and how to align the *IFRS for SMEs* Standard with full IFRS Standards, which are the Standards developed for publicly accountable entities and currently required in more than 140 jurisdictions. The Request for Information asks for views on different approaches to updating the *IFRS for SMEs* Standard, as well as views on how the Standard could be aligned with newer IFRS Standards, such as IFRS 9, Financial Instruments, IFRS 15, Revenue

# Ind AS Alert

from Contracts with Customers and IFRS 16, Leases. The Request for Information is open for comment until **27 October 2020**. ASB of ICAI is engaged in formulation of comments on the Request for Information for submission to the IASB.

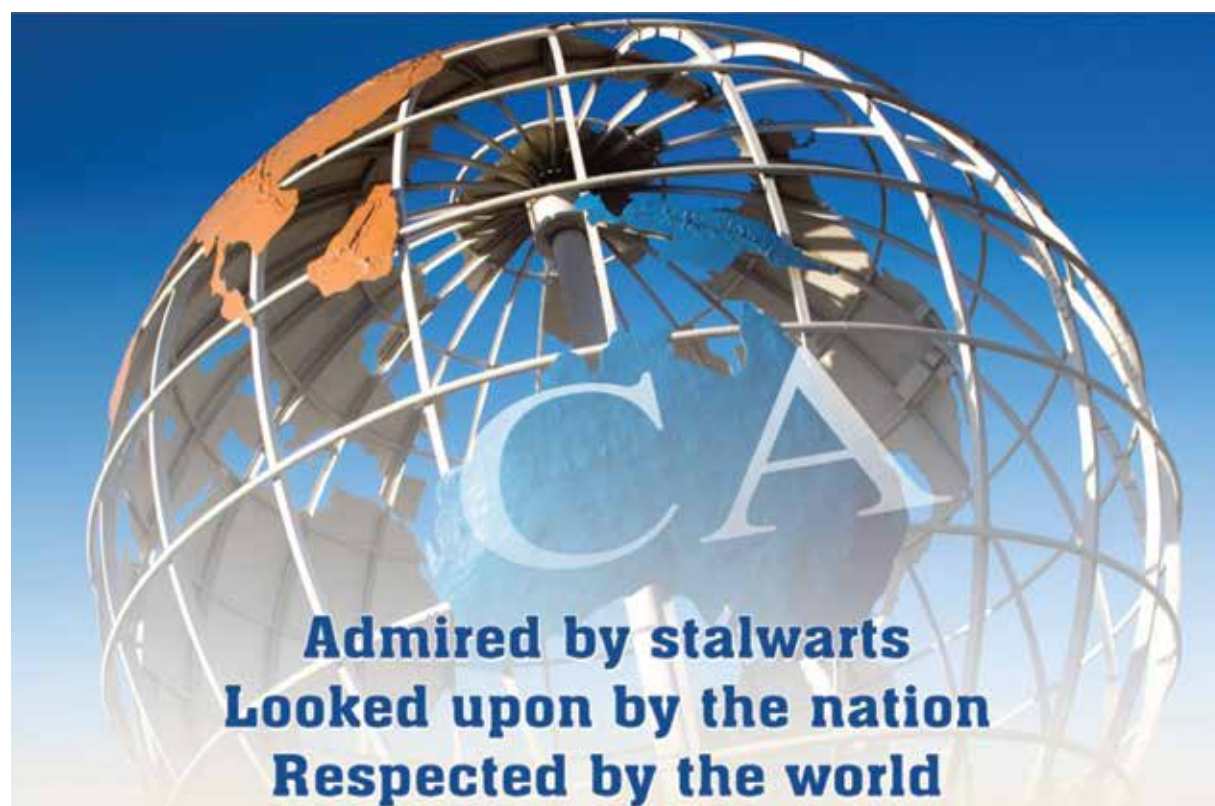
## **(C) Discussion Paper: Business Combinations—Disclosures, Goodwill and Impairment**

The IASB has published a Discussion Paper on possible improvements to the information companies report about acquisitions of businesses to help investors assess how successful those acquisitions have been. The Board is also seeking feedback on how companies should account for goodwill arising from such transactions. The comment letter period is open until **31<sup>st</sup> December 2020** (previously it was 15<sup>th</sup> September 2020, however, changed because of the covid-19 pandemic). The Discussion paper can be assessed at <https://cdn.ifrs.org/-/media/project/goodwill-and-impairment/goodwill-and-impairment-dp-march-2020.pdf>.

## **(D) IFRS Interpretation Committee Agenda Decision**

The IFRS Interpretations Committee (IFRS IC) received a request about the applicability of the sale and leaseback requirements in IFRS 16, on the basis of the fact pattern described in the request, to a transaction in which an entity sells its equity interest in a subsidiary that holds one asset and leases that asset back. The request asked whether the entity in its consolidated financial statements applies the sale and leaseback requirements in IFRS 16 and therefore recognises only the amount of the gain that relates to the rights transferred to the third party.

The IFRS IC discussed and concluded that the principles and requirements in IFRS Standards provide an adequate basis for the entity to determine its accounting for the transaction described in the request. Consequently, the IFRS IC [decided] not to add a standard-setting project to the work plan. The IFRS IC will consider all comments received at a future meeting and invites comments on its decision by **23<sup>rd</sup> November 2020**.



### **MCA Eases Private Placement Norms for Qualified Institutional Buyers**

The Ministry of Corporate Affairs (MCA) notified the Companies (Prospectus and Allotment of Securities) Amendment Rules, 2020 which eased the placement norms for qualified institutional buyers. The notification seeks to amend the Companies (Prospectus and Allotment of Securities) Rules, 2014. In the Companies (Prospectus and Allotment of Securities) Rules, 2014, in Rule 14, in sub-rule (1), after the third proviso, the, "Provided also that in case of offer or invitation of any securities to qualified institutional buyers, it shall be sufficient if the company passes a previous special resolution only once in a year for all the allotments to such buyers during the year," shall be inserted. In other words, companies need not to repeatedly pass Special resolution in case of offer or invitation of any securities to qualified institutional buyers, it shall be sufficient if the company passes a previous special resolution only once in a year for all the allotment to such buyers.

(Source: <https://www.taxscan.in/>)

### **Sebi Extends Regulatory Approval Validity for IPO, Rights Issue by 6 Months**

The step comes following representations from various industry bodies, the Securities and Exchange Board of India (Sebi) said in a circular. Sebi said it has decided to grant these one-time relaxations in view of the impact of COVID-19 pandemic. Recently, Sebi extended validity of regulatory approval for launching initial public offering and rights issue by six months in the wake of coronavirus pandemic. The step comes following representations from various industry bodies, the Securities and Exchange Board of India (Sebi) said in a circular. The validity of Sebi's observations, where the same have expired or will expire between March 1, 2020 and September 30, 2020, has been extended by 6 months from the date of expiry of such observation.

This is subject to an undertaking from lead manager of the issue confirming compliance with the ICDR (Issue of Capital and Disclosure Requirements) Regulations while submitting the updated offer

document to Sebi, it said. As per the norms, a public issue/rights issue needs to be opened within 12 months from the date of issuance of observations by Sebi. Sebi's observation is necessary for any company to launch public issues. The regulator said that an issuer, whose offer document for IPO, follow on public offer and rights issue is pending receipt of its observation, will be permitted to increase or decrease the fresh issue size by up to 50 per cent of the estimated issue size without requiring to file fresh draft offer document with the Sebi.

The relaxation is subject to no change in the objects of the issue, and the lead manager will need to ensure that all appropriate changes are made to the relevant section of DRHP, and an addendum in this regard shall be made public. The relaxation on change in fresh issue size will be applicable for offer documents pending receipt of Sebi observations until December 31, 2020. Under the norms, any increase or decrease in estimated fresh issue size by more than 20 per cent of the estimated fresh issue size require fresh filing of the draft offer document along with fees. Sebi said it has decided to grant these one-time relaxations in view of the impact of COVID-19 pandemic. The circular will come into force with immediate effect, it added.

(Source: <https://www.financialexpress.com/>)

### **Reserve Bank of India Announces Steps to Boost Credit Flow to Real Estate Sector**

As per a notification issued by the RBI, new housing loans will attract a risk weight of 35 per cent where LTV is less than 80 per cent and a risk weight of 50 per cent where LTV is more than 80 per cent but less than 90 per cent. This measure, according to the RBI, is expected to give a lull to bank lending to the real estate sector which is critical for economic recovery, given its role in employment generation and the inter linkages with other industries.

In a bid to increase flow of credit to the real estate sector, the Reserve Bank recently rationalised the risk weightage to LTV (loan to value) ratio for all new housing loans sanctioned up to March 31, 2022. As per a notification issued by the RBI, new housing loans will attract a risk weight of 35 per

# National Update

cent where LTV is less than 80 per cent and a risk weight of 50 per cent where LTV is more than 80 per cent but less than 90 per cent. This measure, according to the RBI, is expected to give a fillip to bank lending to the real estate sector which is critical for economic recovery, given its role in employment generation and the inter linkages with other industries. "As a countercyclical measure, it has been decided to rationalise the risk weights, irrespective of the amount. The risk weights for all new housing loans to be sanctioned on or after the date of this circular and upto March 31, 2022," the notification said. The requirement of standard asset provision of 0.25 per cent will continue to apply on all such loans, the notification added.

(Source: <https://economictimes.indiatimes.com/>)

## Forensic Audit Information to Stock Exchanges – A Must

Markets regulator Sebi recently made it mandatory for all listed entities to disclose to the stock exchanges any forensic audit that a company carries out. The entity is also required to intimate to the exchanges when a forensic audit is initiated, the regulator said after its board meeting earlier in the day. To make debt funds less risky for investors, Sebi has decided that from now on debenture trustees should carry out an independent audit of the collateral against which the company is issuing the debentures. During the board meeting, Sebi also approved a proposal to facilitate setting up of a limited purpose repo-clearing corporation, which could help deepen the debt market. Sebi further said that a person informing the regulator or a company about any violations relating to insider trading could do so within a period of three years from the date of violation. It also made changes in the rules so that the informant for insider trades should include specific information. These refer to details of securities, trades by the suspect and unpublished price sensitive data based on which the insider trading is alleged, it said. The move will address the gaps in availability of information on forensic audit of listed entities. At present, listed companies usually do not make forensic audits public, mainly for fears of negative impact on the stock price and the company's brand. However, forensic audits initiated by regulatory

or enforcement agencies have been excluded from this list.

The Sebi board decided to introduce a code of conduct for fund managers, including chief investment officers and dealers of fund houses. The board also permitted fund houses to become self-clearing members of recognised clearing corporations to clear and settle trades in the debt segment of recognised stock exchanges, on behalf of its mutual fund schemes, it said.

(Source: <https://timesofindia.indiatimes.com>)

## SEBI Comes Out with Uniform Timeline for Listing Securities on Private Placement Basis

The move comes after the regulator received several requests from various market participants for clarification on the time period within which such securities need to be listed after completion of allotment. Markets regulator SEBI recently came out with a uniform time period for listing securities, including municipal bonds, issued on private placement basis. The timeline will be applicable for non-convertible redeemable preference shares, debt securities, securitised debt instruments and security receipts and municipal bonds, SEBI said in a circular. The move comes after the regulator received several requests from various market participants for clarification on the time period within which such securities need to be listed after completion of allotment.

After taking feedback from market participants, SEBI has decided that allotment of securities will be completed by T+2 trading days after receiving funds. T day refers to closure of the issue. It further said issuer needs to make listing application to stock exchanges and obtain approval from the bourses by T+4 trading day.

In case of delay in listing of securities issued on private placement basis beyond the timeline, the issuer will pay penal interest of 1 percent per annum over the coupon rate for the period of delay to the investor (i.e. from date of allotment to the date of listing), SEBI said. Stock exchanges have been asked to inform the listing approval details to the depositories whenever listing permission is given to debt securities issued on private placement basis.

(Source: <https://www.moneycontrol.com/>)

## IFAC Applauds IFRS Consultation on Sustainability Standards Board

IFAC, the global voice of the accounting profession, applauds the IFRS Foundation Trustees in issuing their Consultation Paper on Sustainability Reporting. This marks a critical step on the path towards a *global* solution to sustainability reporting, called for earlier this month by IFAC in its *Enhancing Corporate Reporting: The Way Forward* roadmap. IFAC believes that the demand is urgent and real—from investors, policymakers and other stakeholders—for a sustainability reporting system that delivers consistent, comparable, reliable, and assurable information. The IFRS Foundation is optimally positioned to establish a new sustainability standards board that leverages the expertise and disclosure requirements of existing leading initiatives. Under the IFRS umbrella, the work of this new board can connect with the investor focus of the IASB, while also collaborating with respect to reporting requirements designed to address broader stakeholder interests.

(Source: <https://www.ifac.org/>)

## Stablecoins and Fair Value Measurement Feature in Updated Guidance from AICPA Digital Assets Working Group

The AICPA recently added 13 questions and answers to its Practice Aid, Accounting for and Auditing of Digital Assets. The nonauthoritative guidance focuses on how investment companies and broker dealers should account for digital assets, in addition to providing answers on topics such as fair value and stablecoins. It's based on professional literature and experience from members of the AICPA Digital Assets Working Group and AICPA staff.

The Practice Aid was originally issued in 2019 and updated in 2020, to provide nonauthoritative guidance on how to account for and audit digital assets under U.S. generally accepted accounting principles (GAAP) for nongovernmental entities and generally accepted auditing standards (GAAS), respectively. The AICPA will host a webcast to provide CPAs with a deeper understanding of how to account for investments in, or transactions involving, crypto assets and other digital assets under U.S. GAAP.

(Source: <https://www.aicpa.org>)

## IASB Research Forum 2020

The International Accounting Standards Board (Board) will hold a Research Forum in conjunction with *Accounting and Business Research* (ABR) on 3-2

November 2020. The Research Forum is held annually in conjunction with an academic journal. It brings together academics to discuss research relevant to the Board's projects. Below are the papers that will be discussed during the Forum. The Forum will be held virtually.

(Source: <https://www.ifrs.org/>)

## New Digital First Bank - Monument - Receives Banking Licence from UK Regulators

Monument has received an 'authorisation with restriction' (AWR) banking licence from the UK regulatory authorities, the Prudential Regulation Authority and the Financial Conduct Authority. It has achieved this milestone in just over 18 months, which is believed to be one of the fastest rates of progress for any new bank.

Despite the challenges of the Covid-19 pandemic, Monument is in the process of successfully completing a Series A funding round backed by a combination of existing and new experienced investors, and demand has exceeded expectations. Since inception, Monument has raised circa £20m in funding, with more in progress, providing sufficient capital and operational resources to complete the Bank's build for launch.

During the current COVID-19 pandemic, demand for digital interaction has soared. Monument's culture and IT architecture will ensure ongoing flexibility so that frequent enhancements can quickly be made to its service offering and client experience, and to respond to the developing needs of, and feedback from, its clients.

Monument will be the only bank to offer its clients an entirely digital journey for buy-to-let and property investment lending of up to £2million. It will offer market leading, top quartile savings rates and its model is designed to reward loyalty. So, if a saver deposits money for a subsequent fixed term, they will get a better rate than a new customer. And a borrower who renews their loan will also get a favourable rate. Monument is also seeking to be contrarian in its approach by carefully entering the market at a point in time when it believes that geopolitical and pandemic risks are reasonably priced in the market.

(Source: <http://www.internationalaccountingbulletin.com/>)

## FASB Clarifies Callable Debt Securities Accounting

FASB recently issued rules amendments to clarify an entity's accounting responsibilities related to callable debt securities. Accounting Standards Update

# International Update

(ASU) No. 2020-08, *Codification Improvements to Subtopic 310-20, Receivables — Nonrefundable Fees and Other Costs*, states that an entity should reevaluate whether a callable debt security is within the scope of Paragraph 310-20-35-33 for each reporting period. The standard is not expected to have a significant effect on current practice or create a large administrative cost for most entities. The amendments in the standard are intended to make FASB's Accounting Standards Codification easier to understand and apply. For public business entities, the amendments take effect for fiscal years, and interim periods within those fiscal years, beginning after Dec. 15, 2020. Early application is not permitted. For all other entities, the amendments are effective for fiscal years beginning after Dec. 15, 2021, and interim periods within fiscal years beginning after Dec. 15, 2022. Early application is permitted for all other entities for fiscal years, and interim periods within those fiscal years, beginning after Dec. 15, 2020. All entities are required to apply the amendments on a prospective basis as of the beginning of the period of adoption for existing or newly purchased callable debt securities. The standard issued Thursday does not change the effective dates of ASU No. 2017-08, *Receivables — Nonrefundable Fees and Other Costs (Subtopic 310-20): Premium Amortization on Purchased Callable Debt Securities*.

(Source: <https://www.journalofaccountancy.com>)

## Hope for a New Paradigm—Sustainability Reporting

Sustainability and climate change are the global challenges of our time. In the world of capital markets, asset management and investing, and amongst investors, preparers, financial markets regulators and policymakers alike, there is a growing and urgent demand to improve the consistency and comparability of the figures, data and information in sustainability reporting. Over the last decade or so, we have seen many sustainability standards initiatives across numerous sectors. Some say there are actually more than 1,700 different metrics available for companies to use, including initiatives from governments and international organisations that promote climate change reporting. On 30 September 2020, the Trustees of the IFRS Foundation published a Consultation Paper to assess demands for a global set of internationally-recognised sustainability standards focusing initially on climate-related risks disclosure, and whether the IFRS Foundation should play a role in developing such standards.

This proposed new Sustainability Standards Board is not expected to compete with existing regional or national initiatives, but to collaborate with those

organisations and bodies who are working in this field and to leverage the deep experience of the IFRS Foundation in developing global standards. This would help to harmonise, standardise and/or consolidate the proliferation of metrics, frameworks and disclosure requirements that exists today.

The Consultation Paper invites detailed comments from stakeholders on a number of issues, including how the IFRS could aid the adoption and consistent application of Sustainability Standard Board standards globally; whether to have a focused definition of climate-related risk or consider broader environmental factors; whether sustainability information should be auditable or subject to external assurance and whether to adopt a gradual approach or commence with a double materiality approach. The consultation period ends on 31 December 2020.

(Source: <https://www.ifrs.org/>)

## FASB Proposes 3 Targeted Lease Accounting Changes

FASB recently issued a proposal that is designed to improve three targeted areas of its lease accounting guidance. The proposed amendments are designed to represent FASB's commitment to take timely action based on what the board learns during its post-implementation review process of major standards. The proposed amendments:

- Would amend for lessors the lease classification requirements for leases in which the lease payments are predominantly variable, by requiring lessors to classify and account for those leases as operating leases. In doing so, a FASB media advisory states that the risk of lessors recognizing losses at lease commencement for sales-type leases that are expected to be profitable would be mitigated and the resulting financial reporting would more faithfully represent the economics underlying the lease.
- Would provide the option for lessors to remeasure lease liabilities for changes in a reference index or a rate affecting future lease payments at the date that those changes take effect. The option would be available as an entity-wide accounting policy decision.
- Would change for lessees and lessors the requirements when there is an early termination from some leases within a contract that does not economically affect the remaining leases in that contract. In those circumstances, entities would be exempt from applying modification accounting to the remaining leases.

Comments are sought by December 04, 2020 and can be made on FASB's website.

(Source: <https://www.journalofaccountancy.com>)

# ACCOUNTANT'S BROWSER

## PROFESSIONAL NEWS & VIEWS PUBLISHED ELSEWHERE

*Index of some useful articles taken from Periodicals received for the reference of Faculty/Students & Members of the Institute*

### 1. Accountancy

Fair value accounting, earnings management and the case of bargain purchase gain by Steven Lilien and Bharat Sarath. *Asian Review of Accounting*, Vol.28/2, 2020, pp.229-253.

Financial reporting quality, audit fees and risk committees by Md. Borhan Uddin Bhuiyan and Ummya Salma. *Asian Review of Accounting*, Vol.28/3, 2020, pp.423-444.

IND AS/IGAAP- Interpretation and practical application : Definition of a business amendments to IND AS 103 by Dolphy D'Souza. *Bombay Chartered Accountant Journal*, Vol.52-A/6, September 2020, pp.78-83.

Role of working capital management in profitability considering the connection between accounting and finance by Amer Morshed. *Asian Journal of Accounting Research*, Vol.5/2, 2020, pp.257-267.

### 2. Audit

Auditors response to readability of financial statement notes by Mahdi Salehi and Mahmoud LariDashtBayaz. *Asian Review of Accounting*, Vol.28/3, 2020, pp.463-480.

### 3. Economics

Effect of managerial ownership on bank value: Insights of an emerging economy by

Syed Moudud-Ul-Huq and Tanmay Biswas. *Asian Journal of Accounting Research*, Vol.5/2, 2020, pp.241-256.

### 4. Management

Accrual mispricing in the era of corporate governance reforms by Lan Sun. *Asian Review of Accounting*, Vol.28/3, 2020, pp.373-394.

How to maintain an effective risk management system amid the COVID-19 crisis by Roy Lo and Winnie Leung. *A Plus*, Vol.6/16, 2020, pp.43.

Revisiting the relevance of strategic management accounting research by MdMamunur Rashid and Md Mohobbot Ali. *PSU Research Review*, Vol.4/2, 2020, pp.129-148.

What's your negotiation strategy? Here's how to avoid reactive deal making by Jonathan Hughes and Danny Ertel. *Harvard Business Review*, Vol.98/4, July-August 2020, pp.76-85.

### 5. Taxation and Finance

International Taxation : Taxability of a project office or branch office of a foreign enterprise in India by MayurB. Nayak and Tarunkumar G. Singhal. *Bombay Chartered Accountant Journal*, Vol.52-A/6, September 2020, pp.114-121.

Full Texts of the above articles are available with the Central Council library, ICAI, which can be referred on all working days. For further inquiries please contact on 011-30110419 and 011-30110420 or by e-mail at [library@icai.in](mailto:library@icai.in).

## Legal Decisions



### Income Tax

**LD/69/54, [Madras High Court: Tax Case Appeal No.32 /2019], Sutherland Global Services Vs. The Commissioner of Income Tax, 23/09/2020**

High Court held that ITAT had no jurisdiction to direct the AO by virtually reopening the proceedings concluded under section 201 of the Act pursuant to the order passed by the CIT(A) in assessee's favour. The issue had attained finality pursuant to favorable order of CIT(A) against TDS order under section 201, which was not contested by the Revenue. Tribunal misdirected itself by observing that it has got all powers to examine full facts as it is the final fact finding Authority and thus ITAT exceeded its jurisdiction in remanding the issue.

**LD/69/55, [Madras High Court: T.C.A.No.670 of 2019], The Commissioner of Income Tax Vs. VVA Hotels Private Limited, 21/09/2020**

Addition under section 56(2)(viib) deleted by the High Court with respect to shares issued at premium by assessee-company by accepting Discounted Cash Flow (DCF) method under Rule 11UA to substantiate the share valuation. AO had noted that assessee's actual revenue varied from the projected revenue for four years, HC holds that a 'projected value' is an 'estimate' and in any case, the variation in the estimate in the present case, was marginal. DCF method as stipulated under Rule 11UA does provide for an estimation and merely because the AO is of the view that NAV method alone has to be adopted is not a ground to reject the DCF method.

**LD/69/56, [ITAT Mumbai: ITA NO. 3295/MUM/2019], The Asst. Commissioner of Income Tax Vs. Ehara Engineering P. Ltd., 21/09/2020**

No penalty to be levied under section 271(1)(c) where addition is made merely on estimation basis. While framing the assessment order under section

143(3) r.e. Section 147, an addition on account of bogus purchases was made by the AO to the extent of 12.5% of the total bogus purchases and thereafter AO initiated penalty proceedings under section 271(1)(c) for the same. There has to be a positive act of concealment on the part of the assessee and onus to prove this is on the Department. It is a well settled legal position that no penalty can be levied on estimated additions.

**LD/69/57; ITAT Mumbai: ITA NO. 852/Mum/2019, The Dy. Commissioner of Income Tax Vs. HDFC Sales Private Limited, 18/09/2020**

Disallowance under section 37 for AY 2015-16 towards provision for expenses in 31 different expense heads made on 31.03.2015 was deleted by the CIT(A) in the case of HDFC Sales P. Ltd. ITAT affirmed CIT(A)'s order. Assessee had made year-end provision of ₹ 10.24 crore based on estimation of previous month's expenditure and ultimately made expenses of ₹ 10.46 crore. ITAT rejected Revenue's contention that there was no scientific basis for making provision of the expenses and the estimation projected was misleading. ITAT also rejected revenue's contention that if there was certain liability, the assessee should have made TDS and in absence of TDS the provision was liable to be disallowed under section 40(a)(ia). ITAT upheld CIT(A)'s observation that no disallowance can be made in the context of Section 40(a)(ia) as no payment was exactly identified or quantified.

**LD/69/58, Karnataka High Court: I.T.A. NO.171 OF 2011, The Director of Income Tax, International Taxation Vs. Texas Instruments Incorporated, 14/09/2020**

Pursuant to Section 195 application made by the Indian subsidiary of assessee (which was the payer to the assessee), AO had held that 20% of the IT support service receipts was chargeable to tax. However, during the assessment proceedings of assessee it was held that 15% of various other components included in the IT support service such as salary, equipment and maintenance was

Contributed by CA. Sahil Garud, GST & Indirect Taxes Committee (CA. Mandar Telang), Disciplinary Directorate and ICAI's Editorial Board Secretariat. For details please visit Editorial Page webpage at <https://www.icai.org/post/editorial-board>. Readers are invited to send their comments on the selection of cases and their utility at [eboard@icai.in](mailto:eboard@icai.in). For full judgement write to [eboard@icai.in](mailto:eboard@icai.in).

also taxable as royalty. AO thus raised a demand and also levied interest under section 234B. ITAT held that in respect of non-residents, Section 195 puts an obligation on the payer to deduct income-tax at source and thus the entire tax is to be deducted at source which is payable on such payments made by the payer to the non-resident and thus the question of payment of advance tax by non-resident-assessee would not arise. ITAT had thus held that interest under section 234B was not leviable. High Court upheld ITAT's order.

## Transfer Pricing

**LD/69/59, ITAT Delhi: ITA No. 161/Del/2017, BhartiAirtel Services Limited Vs. The Dy. Commissioner of Income Tax, 06/10/2020**

Delhi ITAT held that outstanding receivables is a separate international transaction of the assessee since payment was not made within the period of 15 days as stated by the service agreement between assessee and its AE which has certain benefit of extended credit to the AEs. ITAT noted that as per agreement, if the payment is beyond 15 days, it does not include the cost of service for withholding the payment beyond 15 days by the associated enterprises. This shows that in the service cost, the cost of outstanding which remains overdue is not factored. ITAT held that outstanding debtors beyond an agreed period is a separate international transaction of providing funds to its associated enterprise for which the assessee must have been compensated in the form of interest at LIBOR + 300 BPS as held by CIT(A).

**LD/69/60, [ITAT Delhi: ITA No. 5165/Del/2016], Global One India Private Limited Vs. The Dy. Commissioner of Income Tax, 30/09/2020**

CIT(A) refused admission of additional evidence by assessee in the form of audited financial statements filed for the first time during the appellate proceedings for AY 2004-05. Delhi ITAT rejected such refusal of CIT(A) and directed the AO to make de-novo assessment after duly considering the evidence. ITAT noted that due to some changes in the management, assessee could not file audited financial statements along with audit report and other statutory documents during the assessment proceedings owing to which AO made an adjustment by way of an ad-hoc 12%

mark-up on total cost of providing services by the company to its parent company. As per ITAT, an earlier inability to lead evidence should not be held against the assessee unless it is known to be incorrect or suggested to be incorrect or there was evidence to suspect that the evidence was fabricated as mentioned in CBDT Instruction No.14 (XL-35) dated 11<sup>th</sup> April, 1955. ITAT directed AO to make the assessment after duly considering the evidence and after giving proper opportunity to the assessee.



## GST

**LD/69/61, [2020-TIOL-1599-MAD-GST], Transtonnelstroy Afcons Joint Venture and Ors vs. Union of India and Ors, 21/09/2020**

Section 54(3)(ii) of the CGST Act is held to be constitutionally valid. Rule 89 (5) of the CGST Rules, limiting the ITC only in respect of Inputs and not in respect of input services is held to be intra-vires Section 54(3)(ii) of the CGST Act.

**LD/69/62, [2020-TIOL-1695-HC MUM-GST], Royal Chains Pvt Ltd. Vs. Union of India and Ors 08/10/2020**

High Court took note of retrospective application of the amendment to Section 50(1) and directions issued by CBIC to the field formations that in respect of the period 1<sup>st</sup> July, 2017 to 31<sup>st</sup> August, 2020, interest should be recovered only on Net liability ( i.e. after deduction from eligible ITC).

## Sales Tax/VAT

**LD/69/63, [Madras High Court: W.P. 7014 of 2015], M/s Inpired Foods Vs. The Commercial Tax Officer, 14/09/2020**

Revenue passed an order whereby it brought the assessee which was a hotel of non-star category into a Star-hotel category under section 7(1)(a). As per Revenue, assessee had claimed ITC as contrary to the provisions of the Act. High Court quashed the said order of Revenue stating that even assuming that the assessee had wrongly claimed ITC, the only option available to the Revenue would be to reverse the ITC as provided under section 27(2) of the TNVAT Act.

## Excise

*LD/69/64, [Madras High Court: C.M.A.No.2 of 2020], The Commissioner of GST & Central Excise Vs. JSW Steel Limited, 09/09/2020*

CESTAT held that assessee could not be attributed with any suppression of relevant facts in regard to valuation in respect of Steel Bars, Rods, etc. transferred for self-consumption for use in the construction work to their Sister Concerns. Revenue appealed against this order of CESTAT which appeal was dismissed by the High Court. High Court noted that assessee followed their advice/suggestion which was based on the Audit objection and changed its valuation method from Rule 4 (transactional value with unrelated parties) of the Central Excise (Valuation) Rules 2000, to Rule 8 (i.e. 110% of cost of transfer of goods). High Court held that assessee cannot be blamed for suppression of facts.

## Customs

*LD/69/65, CESTAT Delhi: W.P. 7014 of 2015, Aureole Atelier Pvt. Limited Vs. The Commissioner of Customs (Preventive), 11/02/2020*

Revenue ordered for confiscation of imported goods of assessee i.e., Sunglasses having proper accreditation and alleging customs duties evasion and also enhanced its value by taking a declaration from assessee's CEO that the differential duty shall be paid by it if required and also imposed penalty on whose payment the goods would be redeemed. CESTAT noted that no reasons recorded for rejection of transaction value before taking the exercise of revaluation and enhancement of transaction value. CESTAT quashed the enhancement of declared value, redemption fine and penalty and held that assessee shall be entitled to consequential benefits including refund of differential duty deposited along with interest under section 129 EE of the Central Excise Act.

## Disciplinary Case



***Systematic embezzlement of money of an educational institution by Respondent while working as its Accountant - Conviction of Respondent by foreign Court with five years of imprisonment and monetary fine for siphoning off the money***

### Held:

In the instant case, the charge against the Respondent is that while working as an accountant with the Complainant college, he has systematically embezzled the money of the college by manipulations, dishonestly committed series of fraudulent acts in order to cause wrongful gain to himself and loss to College. Total recovery of ₹ 40,76,23,196/- against him is receivable comprising of the principal amount due along with interest. The Committee noted the order of Dubai Court dated 26<sup>th</sup> November, 2012 against

the Respondent in case no. 2058/2012 wherein he had been held guilty and was sentenced to five years of imprisonment alongwith a monetary fine of AED15,773,946. The Committee also took note of the report of Special auditor M/s Moore Stephens dated 17.01.2013 wherein it was clearly mentioned that the Respondent adopted the fraudulent means to siphon off the money of the Complainant college. The Committee on perusal of the documents available on record was of the view that the conduct of the Respondent shows that he was actively involved in misappropriation of funds of the Complainant college. The Committee also noted that the Respondent has not produced any written submission at any stage i.e., neither at prima facie stage nor at the time of hearing despite notice being duly served upon him. Further, the Committee also perused the membership file of the Respondent wherein it was found that the Respondent was regular in depositing his membership fee with the Regional office and there was no change in his professional address in ICAI's record indicating that the Respondent was trying to deliberately avoid the submissions/ clarification/ appearing before it. In view of above noted facts, the Committee was of the opinion that the Respondent is guilty of professional and other misconduct falling within the meaning Clause (2) of Part IV of First Schedule and Clause (4) of Part II and Clause (1) of Part III of the Second Schedule to the Chartered Accountants Act, 1949.

# Circulars/Notifications

*Given below are summarised important Circulars and Notifications issued by the CBDT, CBIC-GST, MCA, SEBI and FEMA since the publication of the last issue of the journal, for information and use of members. Readers are requested to use the citation/website or weblink to access the full text of desired circular/notification. Suggestions on this column can be submitted at [eboard@icai.in](mailto:eboard@icai.in)*



## I. NOTIFICATIONS

### 1. Amendment in Rule 29B inserting the term 'insurer' and substitution of Form No. 15C vide the Income-tax (21<sup>st</sup> Amendment) Rules, 2020 – Notification No. 75/2020, dated 22-09-2020

*Rules, 2020 – Notification No. 75/2020, dated 22-09-2020*

This notification has amended Rule 29B (Application for certificate authorising receipt of interest and other sums without deduction of tax) by allowing 'insurer' to make an application u/s 195(3). Refer: [https://www.incometaxindia.gov.in/communications/notification/notification\\_75\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_75_2020.pdf)

### 2. Central Government notifies 'the Faceless Appeal Scheme, 2020' – Notification No. 76/2020, dated 25-09-2020

In exercise of the powers conferred by section 250(6B), the Central Government vide this notification has notified 'the Faceless Appeal Scheme, 2020'. It provides about the Scope, Faceless Appeal Centres, Procedure in Appeal, Penalty/Rectification/Appellate Proceedings, Electronic Exchange of communication only, Authentication and delivery of electronic record, No personal appearance in the Centres etc. Refer: [https://www.incometaxindia.gov.in/Communications/Notification/Notification\\_76\\_2020.pdf](https://www.incometaxindia.gov.in/Communications/Notification/Notification_76_2020.pdf)

### 3. Central Government issues necessary directions for the purposes of giving effect to the 'the Faceless Appeal Scheme, 2020' – Notification No. 77/2020, dated 25-09-2020

In exercise of the powers conferred by section 250(6B), the Central Government vide this notification has issued directions for the purpose of giving effect to 'the Faceless Appeal Scheme, 2020'. It, *inter alia*, provides that the provisions of section 2(16A), section 120, section 129, section

131, section 133, section 134, section 136 and Chapter XX shall apply to the procedure in appeal in accordance with the said Scheme subject to the specified exceptions, modifications and adaptations. Refer: [https://www.incometaxindia.gov.in/Communications/Notification/notification\\_77\\_2020.pdf](https://www.incometaxindia.gov.in/Communications/Notification/notification_77_2020.pdf)

### 4. CBDT authorises ACIT/DCIT(NeAC) to act as the Prescribed Income-tax Authority for the purpose of section 143(2) – Notification No. 79/2020, dated 25-09-2020

Vide this notification, the CBDT has authorised ACIT/DCIT(NeAC) to act as the Prescribed Income-tax Authority for the purpose of section 143(2), in respect of returns furnished u/s 139 or in response to a notice issued u/s 142(1) for the purpose of issuance of notice u/s 143. This notification has come into effect from 13.08.2020. Refer: [https://www.incometaxindia.gov.in/communications/notification/notification\\_79\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_79_2020.pdf)

### 5. CBDT directs the specified Income-tax authorities of the NFAC/RFAC to facilitate conduct of Faceless Appeals – Notification No. 80&81/2020, dated 25-09-2020

Vide this notification, the CBDT has directed that the Income-tax authorities of the National Faceless Appeal Centre/ Regional Faceless Appeal centre as specified, having specified headquarters, shall exercise the powers and perform functions, in order to facilitate the conduct of Faceless Appeal Proceedings, in respect of such territorial areas or persons or class of persons or incomes or class of incomes or cases or class of cases as specified with respect to appeals filed under section 246A or 248, pending or instituted on or after 25.09.2020. Refer: [https://www.incometaxindia.gov.in/Communications/Notification/notification\\_80\\_2020.pdf](https://www.incometaxindia.gov.in/Communications/Notification/notification_80_2020.pdf)  
[https://www.incometaxindia.gov.in/Communications/Notification/notification\\_81\\_2020.pdf](https://www.incometaxindia.gov.in/Communications/Notification/notification_81_2020.pdf)

# Legal Update

## 6. The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 enacted – CG-DL-E-29092020-222110, dated 29-09-2020

Vide this Act, certain specified amendments have been made to (i) the Wealth-tax Act, 1957;

(ii) the Income-tax Act, 1961; (iii) the Prohibition of Benami Property Transactions Act, 1988; (iv) Chapter VII of the Finance (No. 2) Act, 2004; (v) Chapter VII of the Finance Act, 2013; (vi) the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015; (vii) Chapter VIII of the Finance Act, 2016; and (viii) the Direct Tax Vivad se Vishwas Act, 2020. Refer: [https://www.incometaxindia.gov.in/news/taxation\\_other\\_laws\\_relaxation\\_amed\\_certain\\_provisions\\_act\\_2020.pdf](https://www.incometaxindia.gov.in/news/taxation_other_laws_relaxation_amed_certain_provisions_act_2020.pdf)

## 7. Certain specified amendments made in Income-tax Rules, 1962 vide the Income-tax (22<sup>nd</sup> Amendment) Rules, 2020 – Notification No. 82/2020, dated 01-10-2020

Vide this Notification, CBDT has made amendments in Rule 5 (Depreciation), insertion of new Rule 21AG (Exercise of option section 115BAC(5)), Rule 21AH (Exercise of option under section 115BAD(5)), amendment in Form 3CD (insertion of new clause 8a, 18(ca/cb), substitution of clause 32(a), Form No. 3CEB, ITR Form 6. These amendments have been made regarding compliances w.r.t. provisions of section 115BAA, 115BAB, 115BAC and 115BAD. Refer: [https://www.incometaxindia.gov.in/communications/notification/notification\\_82\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_82_2020.pdf)

## II. CIRCULARS

### 1. Guidelines under section 194-O(4) and section 206C(1-I) of the Income-tax Act, 1961 - Circular No. 17/2020, dated 29-09-2020

In exercise of power contained in section 194-O(4) and section 206C(1-I), the CBDT, with the approval of the Central Government, has issued the guidelines vide this Circular for removing difficulty in respect of matters specified therein. Refer: [https://www.incometaxindia.gov.in/communications/circular/circular\\_17\\_2020.pdf](https://www.incometaxindia.gov.in/communications/circular/circular_17_2020.pdf)

## III. PRESS RELEASES/INSTRUCTIONS/OFFICE MEMORANDUM/ORDER

### 1. Guidelines for compulsory selection of returns for Complete Scrutiny during the Financial Year 2020-21 - Conduct of assessment proceedings in such cases – F.No.225/126/2020/ITA-11, dated 17-09-2020

Keeping in view of the Faceless Assessment Scheme, 2020 implemented by the Department and the

difficulties being faced amid COVID-19 pandemic, the parameters for compulsory selection of returns for Complete Scrutiny during Financial Year 2020-21 and conduct of assessment proceedings in such cases are prescribed vide this document. Refer: [https://www.incometaxindia.gov.in/Lists/Latest%20News/Attachments/416/Guidelines\\_compulsory\\_selection\\_returns\\_Complete\\_Scrutiny\\_MiscComm\\_18\\_9\\_20.pdf](https://www.incometaxindia.gov.in/Lists/Latest%20News/Attachments/416/Guidelines_compulsory_selection_returns_Complete_Scrutiny_MiscComm_18_9_20.pdf)

### 2. Faceless Appeals launched by CBDT - Honoring The Honest – Press Release, dated 25-09-2020

The Income Tax Department launched Faceless Income Tax Appeals on 25.09.2020. Under Faceless Appeals, all Income Tax appeals will be finalised in a faceless manner under the faceless ecosystem with the exception of appeals relating to serious frauds, major tax evasion, sensitive & search matters, International tax and Black Money Act. Refer: <https://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/854/Press-Release-Faceless-Appeals-launched-by-CBDT-today-Honoring-The-Honest-dated-25-09-2020.pdf>

### 3. Setting up of NFAC/RFAC under “Faceless Appellate Scheme, 2020” – Order(s), dated 25-09-2020

In pursuance of Notification No 76/2020, dated 25.09.2020, notifying the Faceless Appeal Scheme, 2020 and powers conferred u/s 250(6B), the CBDT vide these Order(s) had set up the National Faceless Appellate Centre (NFAC) and the Regional Faceless Appellate Centres (RFAC), which shall have its headquarters at Delhi and other specified places and shall comprise of the specified Income-tax Authorities. Refer: <https://www.incometaxindia.gov.in/Documents/faceless-appeal/nfac-order-no.-1-dated-25-09-2020.pdf>  
<https://www.incometaxindia.gov.in/Documents/faceless-appeal/Setting-up-of-RFAC-under-Faceless-Appellate-Scheme-2020.pdf>

### 4. No requirement of scrip wise reporting for day trading and short-term sale or purchase of listed shares – Press Release, dated 26-09-2020

The CBDT has clarified that as the grandfathering is to be allowed by comparing different values (such as cost, sale price and market price as on 31.01.2018) for each shares/units, there is a need to capture the scrip wise details for computing capital gains of specified shares/units. The scrip wise details are not required in income tax return forms for AY 2020-21 for computation

of capital gains/business income from shares/units which are not eligible for grandfathering. Refer: <https://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/857/Press-Release-No-requirement-of-scrip-wise-reporting-for-day-trading-dated-26-09-2020.pdf>

## 5. Order of the CBDT regarding uploading Information relating to GST return in Form 26AS as per Rule 114-I – Order u/s 119, dated 29-09-2020

Vide this Order, the CBDT has authorized the PDGIT (Systems) or the DGIT (Systems) to upload information relating to GST return, which is in his possession, in the Annual Information Statement in Form 26AS, within three months from the end of the month in which the information is received by him. Refer: [https://www.incometaxindia.gov.in/Lists/Latest%20News/Attachments/417/Order\\_CBDT\\_Information\\_relating\\_GST\\_Rule\\_114I\\_29\\_9\\_20.pdf](https://www.incometaxindia.gov.in/Lists/Latest%20News/Attachments/417/Order_CBDT_Information_relating_GST_Rule_114I_29_9_20.pdf)

## 6. Order u/s 119 of the Income-tax Act, 1961 regarding extension of dates for filing of belated and revised ITRs for the A.Y. 2019-20 – Order u/s 119(2)(a), dated 30-09-2020

On consideration of genuine difficulties being faced by the taxpayers due to the outbreak of COVID-19 pandemic, the CBDT, in exercise of powers conferred under section 119(2)(a), further extended the date for furnishing of belated and revised returns for the AY 2019-20 under sub-section (4) and (5) of section 139 respectively, from 30.09.2020 to 30.11.2020. Refer: [https://www.incometaxindia.gov.in/Lists/Latest%20News/Attachments/418/Order\\_119\\_IT\\_ACT\\_Extension\\_dates\\_for\\_filing\\_ITRs\\_AY2019\\_20.pdf](https://www.incometaxindia.gov.in/Lists/Latest%20News/Attachments/418/Order_119_IT_ACT_Extension_dates_for_filing_ITRs_AY2019_20.pdf)

## 7. Clarification on doubts arising on account of new TCS provisions – Press Release, dated 30-09-2020

Vide this press note, CBDT has clarified certain specified doubts about the applicability of TCS provisions applicable from 01.10.2020 and introduced vide the Finance Act 2020 like specified TCS provisions shall be applicable only on the amount received on or after 01.10.2020. Refer: <https://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/858/Press-Release-Clarification-on-doubts-arising-on-account-of-new-TCS-provisions-dated-30-09-2020.pdf>

## 8. Order assigning the role of Pr.CCIT (Jurisdictional) and Pr. CCIT (NFAC) – Order u/s 119, dated 14-10-2020

In order to streamline the working of recently introduced Faceless Appeal Centres, the CBDT vide this Order has *inter alia* directed that the Pr.

CCsIT (Jurisdictional) shall be the cadre controlling authority for the NFAC and RFACs respectively. Further, the CBDT has also clarified the roles and responsibilities of the Pr.CCIT (NFAC) as well. Refer: <https://www.incometaxindia.gov.in/Documents/faceless-appeal/Order-under-section-119-of-the-Income-tax-Act-1961-assigning-the-role-of-Pr-CCsIT-Jurisdictional-and-Pr-CCIT-NFAC.pdf>



### GST

## Extension of time limit provided under Section 31(7) of the CGST Act, 2017

Notification No. 66/2020- Central Tax dated 21<sup>st</sup> Sept, 2020 has provided that where any time limit for completion or compliance of any action, by any person, has been specified in, or prescribed or notified under section 31(7) of the CGST Act in respect of goods being sent or taken out of India on approval for sale or return, which falls during the period from 20<sup>th</sup> March, 2020 to the 30<sup>th</sup> day of October, 2020, and where completion or compliance of such action has not been made within such time, then, the time limit for completion or compliance of such action, shall stand extended upto the 31<sup>st</sup> day of October, 2020.

## Conditional waiver / reduction in late fee for not furnishing FORM GSTR-4 and GSTR-10

The Central Government vide Notification No. 67/2020- Central Tax and Notification No. 68/2020- Central Tax dated 21<sup>st</sup> Sept, 2020 has conditionally waived / reduced the late fees for the registered persons who failed to furnish the return in FORM GSTR-4 and FORM GSTR-10 as under:-

| FORM   | Condition   | Late Fee payable  |
|--|---|---|
| Form GSTR-4 for the Quarters of:-<br>July, 2017 to March, 2019 | If returns are furnished between 22.09.2020 to 31.10.2020 | Maximum late fee capped at Rs. 500/- per return if there is any tax liability.<br>NIL late fee if there is no tax liability |
| F O R M GSTR- 10   | If return is furnished between 22.09.2020 to 31.12.2020   | Maximum late fee capped at Rs. 500/-  |

## Horizon of applicability of E-invoicing widened

The Central Government vide Notification No. 70/2020-Central Tax dated 30<sup>th</sup> Sept, 2020

# Legal Update

has substituted “a financial year” to “any preceding financial year from 2017-18 onwards” and “goods or services or both to a registered person” to “goods or services or both to a registered person or for exports” as given at Notification No.-2020/13 Central Tax dated 21<sup>st</sup> March, 2020.

Thereby, E-invoicing is now applicable to registered person having turnover exceeding Rs. 500 crore in any preceding financial year from financial year 2017-18 and E-invoice shall be generated for export transactions as well.

## *Extension in date of implementation of the Dynamic QR Code for B2C invoices*

**The Central Government vide Notification No. 71/2020-Central Tax dated 30<sup>th</sup> Sept, 2020 has amended Notification No.14/2020 – Central Tax, dated the 21<sup>st</sup> March, 2020 to:-**

- defer the date of implementation of Dynamic Quick Response (QR) code on B2C invoices to 1<sup>st</sup> December, 2020 from earlier notified date 1<sup>st</sup> October, 2020
- make it applicable for those registered persons (subject to exceptions as referred to in the Notification No.14/2020) whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds Rs. 500 crore.

## *Amendment in the CGST Rules*

**The Central Government vide Notification No. 72/2020-Central Tax dated 30<sup>th</sup> September, 2020 read with Corrigendum dated 1<sup>st</sup> October, 2020 to Notification No. 72/2020-Central Tax dated 30<sup>th</sup> September, 2020 has made the following amendments in the CGST Rules, 2017-**

- Insertion of New clause 46(r):- To mention QR code having embedded Invoice Reference Number (IRN) in it, in case invoice has been issued in the manner prescribed under rule 48(4), in a tax invoice to be issued by the registered person.
- Insertion of proviso in Rule 48(4) :- To empower the Commissioner to exempt a person or a class of registered persons from issuance of E-invoice for a specified period, subject to such

conditions and restrictions as may be specified on the recommendations of the Council.

- Substitution of sub-rule (2) in rule 138A:- To provide that in case of issuance of E-invoice, the QR code having an embedded IRN in it, may be produced electronically, for verification by the proper officer in lieu of the physical copy of such tax invoice

## *Clarification of issues relating to application of sub-rule (4) of rule 36 of the CGST Rules, 2017, cumulatively for the months of February, 2020 to August, 2020*

CBIC vide Circular No. 142/12/2020- GST dated 9<sup>th</sup> October, 2020 has issued the clarification relating to application of sub-rule (4) of rule 36 of the CGST Rules, 2017 for the months of February, 2020 to August, 2020 in view of measures taken to contain the spread of COVID19- pandemic. The circular may be referred for detailed clarification and the example quoted for the manner of cumulative reconciliation.

## *Due Date for filing of Form GSTR-1 & Form GSTR-3B*

The Central Government vide Notification No.74/2020, Notification No.75/2020 and Notification No.76/2020-Central Tax all dated 15<sup>th</sup> October, 2020 has notified the due dates for filing of Form GSTR-1 & Form GSTR-3B for the months of October, 2020 to March, 2021 as follows:

| Due dates of filing of Form GSTR-1 for the Quarter/Month from October, 2020 to March, 2021 |   |  |
|--|---|--|
| Sl. No.  | Registered persons having aggregate turnover of:  | Due Date   |
| 1.   | up to 1.5 crore rupees in the preceding financial year or the current financial year (Quarterly return filer)   | 13 <sup>th</sup> day of next month following the quarter |
| 2.   | more than 1.5 crore rupees in the preceding financial year or the current financial year (Monthly return filer) | 11 <sup>th</sup> day of next month                       |

| Due dates of filing of Form GSTR-3B for the month of October, 2020 to March, 2021 |  |
|---|--|
| Limit of Aggregate Turnover   | Due date   |
| Aggregate Turnover in the preceding F.Y. > ₹ 5 Crores                             | 20 <sup>th</sup> day of next month   |
| Aggregate Turnover in the preceding F.Y. < = ₹ 5 Crores                           | 22 <sup>nd</sup> / 24 <sup>th</sup> day of next month depending on the State wherein principal place of business of Taxpayers is situated. |

## Annual Return related relaxation for MSME for 2019-20

The Central Government vide Notification No.77/2020-Central Tax dated 15<sup>th</sup> October, 2020 has made the filing of Annual return optional for F.Y. 2019-20 also for those registered persons whose aggregate turnover is less than Rs 2 crores.

## HSN Code related changes

CBIC vide Notification No.78/2020-Central Tax dated 15<sup>th</sup> October, 2020 and Notification No.06/2020-Integrated Tax dated 15<sup>th</sup> October, 2020 has revised requirement for mentioning HSN code, with effect from 1<sup>st</sup> day of April, 2021, as follows: -

| S.No. | Aggregate Turnover in the preceding FY | Number of Digits of HSN Code |
|-------|--|------------------------------|
| 1.    | Up to ₹ 5 crores                       | 4                            |
| 2.    | more than ₹ 5 crores                   | 6                            |

Provided that a registered person **having aggregate turnover up to Rs. 5 crores** in the previous financial year **may not mention the number of digits of HSN Code**, in a tax invoice issued by him **in respect of supplies made to unregistered persons**.

## Amendments in Central Goods & Services Tax Rules, 2017

The Central Government vide Notification No.79/2020-Central Tax dated 15<sup>th</sup> October, 2020 has made few amendments in CGST Rules, 2017, including the followings:-

- SMS Facility for filing of Nil Return in case of FORM GST CMP-08
- Extension of the applicability of threshold of Rs.5 Crore for Filing GSTR-9C for the FY 2019-20 also, earlier applicable for F.Y. 2018-19 only.
- Amendments in few GST Forms.

For detailed amendment, the notification may be referred.

## CUSTOM

### Extension of the RoSCTL scheme

The Central Government vide Notification No. 36/2020-Customs dated 5<sup>th</sup> October, 2020 has amended Notification No. 13/2020-Customs dated 14.02.2020 for extending the RoSCTL scheme validity from 31.03.2020 to 31.03.2021 or until such date the RoSCTL scheme is merged with RoDTEP scheme, whichever is earlier.

### Faceless Assessment - Measures for timely assessment of Bills of Entry and clarification on defacement of physical documents

CBIC vide Circular No. 45/2020-Customs dated 12<sup>th</sup> October, 2020 have taken *inter-alia* the following **measures for faceless assessment**:

- To avoid delays for the export of the items which are time sensitive goods such as life-saving drugs or imports by security/defence and other Government agencies, Saturdays have been made working days for faceless assessment.
- All the time sensitive imports shall be monitored at the port so that there are no delays.
- There is a need to ensure that queries are minimized to the extent necessary for carrying out the assessment.
- Trade may be asked to upload at the first instance only, supporting documents like product/technical literature and mandatory documents, certificates, which would help avoid queries and delays.
- Where an importer requests First Check on a regular basis, the FAG officers and the NAC

must take due care that this request is genuine and is not being routinely used to avoid self-assessment.

- Turant Suvidha Kendra (TSK) at the Port of Import would act as Facilitation Helpdesk for any grievance related to clearances of the B/E filed in the port.

## *Procedure for inspection of ICDs/CFSs/AFSs*

CBIC vide [Circular No. 44/2020-Customs dated 12<sup>th</sup> October, 2020](#) has put in place a proper system for regular inspection of ICDs/CFSs and directs that:-

- The jurisdictional Commissioner (JC) at the beginning of every financial year (FY) shall chalk out an action plan to conduct inspection of ICDs/CFSs, by an officer of the rank of Deputy/ Assistant Commissioner or above (who is not in-charge of such ICD/CFS) once every financial year probably in the first quarter of the financial year.
- A report on the inspection conducted shall be submitted to JC of Customs with copy to Chief Commissioner concerned.
- The first inspection, wherever required, shall be completed by 31.12.2020.
- The JC of Customs shall then take remedial action wherever deficiencies are noticed including penal action on the defaulting ICDs/CFSs.
- Normally the operations and records in respect of the previous FY shall be covered in the inspection.
- For the ICDs/CFSs, which have not been inspected/ audited so far, the initial inspection shall be for the period of last 5 years or from the date of commencement whichever is earlier.
- The Directorate General of Performance Management during the inspections of field commissionerates, done by them shall also examine the records relating to the inspections of ICDs/CFSs

## *Implementation of the Sea Cargo Manifest and Transshipment Regulations*

CBIC vide [Circular No. 43/2020-Customs dated](#)

[12<sup>th</sup> October, 2020](#) has made changes in the **Sea Cargo Manifest and Transshipment Regulations (SCMT)** for filing of **Sea Cargo Manifest** for all **Cargo** arriving on vessels calling and departing India.



## **Extension of the period of the Company Law Committee**

The Ministry of Corporate Affairs has extended the tenure of the existing Company Law Committee up to 17<sup>th</sup> September, 2021. The Committee was set up on 18<sup>th</sup> September, 2019 to provide Ease of Doing Business to law abiding corporates and fostering improved corporate compliance for stakeholders at large. Refer: [http://www.mca.gov.in/Ministry/pdf/ExtensionNotice\\_17092020.pdf](http://www.mca.gov.in/Ministry/pdf/ExtensionNotice_17092020.pdf)

## **Companies (Amendment) Act, 2020**

The Companies (Amendment) Act, 2020 (herein after referred to as 'the Amendment Act') got the assent of Hon'ble President as on 28<sup>th</sup> September, 2020 and is thus operative since that date. It was passed by the Lok Sabha on 19<sup>th</sup> September, 2020 and by the Rajya Sabha on 22<sup>nd</sup> September, 2020.

There are amendments in 61 sections in the Act and 4 sections have been newly inserted which includes the provisions for Producer Companies. Major thrust of the Amendment Act is decriminalisation of the Companies Act, 2013 and lightening rigour of penalties. Besides relaxation of CSR law, remuneration to non-executive directors in case of inadequate profits, producer companies, periodic financial results by non-listed companies, etc. has been provided.

An announcement in this regard, for the highlights and detailed amendments in the Companies (Amendment) Act, 2020 has also been hosted on the ICAI website, Committee page. Link for the same has been given below. Refer: <https://resource.cdn.icai.org/61306clcg290920b.pdf>, <https://resource.cdn.icai.org/61305clcg290920a.pdf>

## **Extension of Companies Fresh Start Scheme, 2020**

Considering the large scale disruption due to COVID-19 pandemic, MCA has decided to extend the aforementioned scheme till **December 31, 2020**.

The Ministry in its earlier Circular no.12/2020 dated March 2020 ,30 has issued Companies Fresh Start Scheme, 2020 to facilitate the companies registered in India in a fresh start by taking certain alleviative measures for the benefit of all companies. Refer [http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.30\\_28092020.pdf](http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.30_28092020.pdf),

## **Extension of time –LLP Settlement Scheme, 2020**

In continuation to the Ministry of Corporate Affairs General Circular No.13/ 2020 dated 30.03.2020, in view of large scale disruption caused by the COVID-19 pandemic and after due examination, it has been decided to extend aforesaid scheme till 31<sup>st</sup> December, 2020 Refer: [http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.31\\_28092020.pdf](http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.31_28092020.pdf)

## **Extension of time- Scheme for relaxation of time for filing forms related to creation or modification of charges under the Companies Act, 2013**

The MCA on September 28, 2020 has amended the general circular no. 23/2020 issued on June 2020 ,17 which specifies the scheme for relaxation of time for filing forms related to creation or modification of charges under the Companies Act, 2013. The Ministry has decided to further extend the scheme till **December 31, 2020**. Accordingly, the figures “30.09.2020” and “01.10.2020” wherever they appear in the G.C. shall be substituted with figures “31.12.2020” and “01.01.2021” respectively. Refer: [http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.32\\_28092020.pdf](http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.32_28092020.pdf)

## **Clarification on passing of ordinary and special resolutions by companies under the Companies Act, 2013 read with rules made thereunder on account of COVID-19- Extension of time**

In continuation of the earlier Circular (General Circular No.14/2020 dated 8<sup>th</sup> April, 2020, No.17 /2020 dated 13<sup>th</sup> April, 2020 and No.22/2020 dated 15.06.2020) issued by the Ministry regarding conduct of EGMs through Video Conferencing or OAVM or transact items through postal ballot in accordance with the framework provided in the aforesaid Circulars. The Ministry has further extended the timeline for the same till December 31, 2020. Refer: [http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.33\\_28092020.pdf](http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.33_28092020.pdf)

## **Companies (Appointment and Qualification of Directors) 4<sup>th</sup> Amendment Rules, 2020**

The Ministry of Corporate Affairs via notification dated 28<sup>th</sup> September 2020 notified that Central Government has amended the Companies (Appointment and Qualification of Directors) Rules, 2014, wherein Rule 6 in sub-rule (1), in clause (a), for the words “ten months” the words “thirteen months” shall be substituted. The last date for registration of details of Independent Directors in the ID Data Bank has been further extended by three months, i.e. upto 31<sup>st</sup> December, 2020 Refer: [http://www.mca.gov.in/Ministry/pdf/FourthAmendmentRules\\_29092020.pdf](http://www.mca.gov.in/Ministry/pdf/FourthAmendmentRules_29092020.pdf)

## **Companies (Meetings of Boards and its powers) Third Amendment Rules, 2020**

The Ministry of Corporate Affairs vide its notification dated 28<sup>th</sup> September, 2020 has notified Companies (Meetings of Board and its powers) Third Amendment Rules, 2020. Post these amendment rules, the timeline within which the matters referred to in sub-rule (1) of rule 4 may be conducted through video conferencing or other audio visual means in accordance with rule 3 has been further extended till 31<sup>st</sup> December 2020. Refer: [http://www.mca.gov.in/Ministry/pdf/ThirdAmendmentRules\\_29092020.pdf](http://www.mca.gov.in/Ministry/pdf/ThirdAmendmentRules_29092020.pdf)

## **Clarification with regard to creation of deposit repayment reserve of 20% u/s 73(2)(c) of the Act, and to invest or deposit 15% of amount of debentures u/r 18 of Companies (Share Capital and Debentures) Rules 2014**

In continuation to the Ministry's General Circulars No. 24/2020 dated 19<sup>th</sup> June, 2020 wherein time limit with regard to creation of deposit repayment reserve of 20% u/s. 73 (2) (c) of the Companies Act 2013 and to invest or deposit 15% of amount of debentures u/r.18 of Companies (Share capital and Debentures) Rules 2014 - COVID-19 has been further extended from 30<sup>th</sup> September 2020 to 31<sup>st</sup> December 2020 Refer: [http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.34\\_29092020.pdf](http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.34_29092020.pdf)

## **Filings under section 124 and section 125 of the Companies Act 2013 r/w IEPFA (Accounting, Audit, Transfer and Refund) Rules 2016 in view of extension of CFSS, 2020**

The Ministry of Corporate Affairs have extended the CFSS, 2020 till 31<sup>st</sup> December, 2020. In view of the same, the necessary relaxation in so far as filing of various IEPF e-forms (IEPF-1, IEPF-1A, IEPF-2, IEPF-3, IEPF-4, IEPF-7) and e-verification of claims filed in e-form IEPF-5 without additional fees has also been provided in the said circular till 31<sup>st</sup> December, 2020. Refer: [http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.35\\_30092020.pdf](http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.35_30092020.pdf)

SEBI



## **Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Third Amendment) Regulations, 2020**

The Securities and Exchange Board of India (SEBI) on 8<sup>th</sup> October 2020 has issued the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Third Amendment) Regulations, 2020 to further amend the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.

The following amendments have been made:

Regulation 54 (1), which specifies that the listed entity shall maintain hundred percent asset cover, has been substituted, namely:

“In respect of its listed non-convertible debt securities, the listed entity shall maintain hundred per cent. asset cover or asset cover as per the terms of offer document/ Information Memorandum and/ or Debenture Trust Deed, sufficient to discharge the principal amount at all times for the non-convertible debt securities issued.”

Regulation 56 (1)(d), which specifies the need for half-yearly certificate for the maintenance of the hundred percent asset cover, has been substituted, namely:

“A half-yearly certificate regarding maintenance of hundred percent asset cover or asset cover as per the terms of offer document/ Information Memorandum and/or Debenture Trust Deed, including compliance with all the covenants, in respect of listed non-convertible debt securities, by the statutory auditor, along with the half-yearly financial results.”

In Schedule III, Part A (A)(17), which specifies the initiation of forensic audit, has been inserted, namely:

“In case of initiation of forensic audit, (by whatever name called), the following disclosures shall be made to the stock exchanges by listed entities:

1. The fact of initiation of forensic audit along-with name of entity initiating the audit and reasons for the same, if available.
2. Final forensic audit report (other than for forensic audit initiated by regulatory / enforcement agencies) on receipt by the listed entity along with comments of the management, if any.”  
Refer: [https://www.sebi.gov.in/legal/regulations/oct-2020/securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-regulations-2015-last-amended-on-october-08-2020-\\_47828.html](https://www.sebi.gov.in/legal/regulations/oct-2020/securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-regulations-2015-last-amended-on-october-08-2020-_47828.html)

## **Securities and Exchange Board of India (Issue and Listing of Debt Securities) (Amendment) Regulations, 2020.**

The Securities and Exchange Board of India (SEBI) on 8<sup>th</sup> October, 2020 has issued the Securities and Exchange Board of India (Issue and Listing of Debt Securities) (Amendment) Regulations, 2020 to further amend the Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008.

The following amendments have been made:

Regulation 2 (1)(h), which specifies the definition of private placement, has been substituted, namely:

“Private placement” means an offer or invitation to subscribe or issue of securities to a select group of persons by a company (other than by way of public offer) through private placement offer-cum-application, which satisfies the conditions specified in section 42 of the Companies Act, 2013.”

Regulation 15 (2), which specifies that every debenture trustee shall accept the trust deed, has been substituted, namely:

“Every debenture trustee shall amongst other matters, accept the trust deeds which shall contain the matters as prescribed under section 71 of Companies Act, 2013 and Form No. SH.12 of the Companies (Share Capital and Debentures) Rules, 2014. Such trust deed shall consist of two parts:

1. Part A containing statutory/standard information pertaining to the debt issue.
2. Part B containing details specific to the particular debt issue.”

Regulation 21B, which specifies the creation of the security, has been inserted, namely:

“The issuer shall give an undertaking in the Information Memorandum that the assets on which charge is created are free from any encumbrances and in cases where the assets are already charged to secure

a debt, the permission or consent to create a second or pari-passu charge on the assets of the issuer has been obtained from the earlier creditor. Refer: [https://www.sebi.gov.in/legal/regulations/oct-2020/securities-and-exchange-board-of-india-issue-and-listing-of-debt-securities-amendment-regulations-2020\\_47820.html](https://www.sebi.gov.in/legal/regulations/oct-2020/securities-and-exchange-board-of-india-issue-and-listing-of-debt-securities-amendment-regulations-2020_47820.html)



## Export Data Processing and Monitoring System (EDPMS) Module for 'Caution / De-Caution Listing of Exporters' – Review

**A.P. (DIR Series) Circular No. 03 dated October 09, 2020**

In connection with Para 4 of Statement on Development and Regulatory Policies issued on October 09, 2020, RBI has decided to withdraw the existing Paras 3(1)(i) and 3(1)(ii) of A.P. DIR Circular No. 74 dated May 26, 2016 on Module for 'Caution/De-Caution Listing of Exporters' in EDPMS. The said paras are withdrawn with a intent to make system more exporter friendly and equitable.

As per revised procedure, an exporter would be caution-listed by RBI based on recommendations of AD Bank concerned, depending upon the exporters track record with AD Bank and investigative agencies. The AD Bank would make recommendations in this regard to the Regional Office concerned of the Foreign Exchange Department of RBI in case the exporter has come to adverse notice of Enforcement Directorate (ED)/Central Bureau of Investigation (CBI)/Directorate of Revenue Intelligence (DRI)/any such other law enforcement agency and/or exporter is not traceable and/or is not making sincere efforts to realize the exports proceeds.

AD Bank would also made recommendations to the Regional office of the RBI for de-caution listing an exporter as per the laid procedure.

The procedural aspects of handling shipping documents of caution-listed exporters by the AD Banks as outlined in para 3.2 of circular ibid, remain unchanged.

Master Direction 16/2015 dated January 1, 2016 is updated to reflect the above changes.

Chartered Accountants and other subject experts, with academic passion and flair for writing, are invited to share their expertise through the ICAI Journal – *The Chartered Accountant*. The article may cover any topic relevant to the accounting world covering auditing, finance, laws, strategy, taxation, technology and so on. While submitting articles, please keep following aspects in mind:

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- ❖ Articles should be original in nature
- ❖ An executive summary of about 100 words should accompany the article.
- ❖ Articles should not have been published or sent for publishing in any other print or electronic media.

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The Institute of Chartered Accountants of India, a statutory body regulating the accounting profession in India, has a long and chequered history as the second largest Institute in the world. The Institute has delivered to the world high class CA professionals apart from setting benchmarks in the quality of financial reporting in India and abroad. ICAI not only performs its statutory duties as a regulator of the profession of Chartered Accountancy in India by formulating Accounting Standards in keeping pace with changing economic-scenario but also has enforced the ethical values as enshrined in Code of Ethics to progress as envisaged in the Chartered Accountants Act, 1949 and the Chartered Accountants Regulations, 1988.



**The Institute of Chartered Accountants of India**

#### Financial Reporting Review Board

Review the general purpose financial statements of the enterprises and the auditor's report thereon suo motto or on a reference made with a view to determine, to the extent possible, compliances on generally accepted accounting principles, disclosure requirements and reporting obligations of the auditor.

#### Peer Review Board

Enhancing quality of professional work, transparency in technical standards used, world class procedures and techniques resulting into more reliable and useful audit and reports through a system of Peer Review

#### Disciplinary Mechanism

Proactively act on matters of professional and or other misconduct and take action through well-defined disciplinary mechanism.

#### Quality Review Board

Initiate reviews of quality of audit services provided by members of the Institute in respect of private limited companies, unlisted public companies below the thresholds specified under Rule 3(1) of NFRA Rules, 2018 and other entities not specified under the Rule; and those referred by NFRA

#### Monitoring the Tendering issues

Examine Cost Sheets which are to be maintained by members of the Institute while responding to tenders, monitor and analyse these sheet vis-à-vis the bids quoted by CAs in all the permissible tenders and refer the deviations at appropriate levels and call for peer review of the said assignments in cases of abnormal difference.

#### Taxation Audits Quality Review Board

Carry out reviews to improve the reporting of compliance under various taxation laws (both Direct as well as Indirect) and help the members to exercise greater diligence while certifying various reports prescribed under the taxation laws.

#### Unique Document Identification Number

Curb the malpractices by third persons misrepresenting themselves as Chartered Accountants and misleading the Authorities and other stakeholders.

**and much more.....**



# ICAI DOCTORAL SCHOLARSHIP SCHEME 2020

**Last date for Submission of application:**  
**15<sup>TH</sup> NOVEMBER 2020**

## About the SCHOLARSHIP

Research Committee of ICAI has launched ICAI Doctoral Scholarship Scheme 2020 to award scholarship to members of the Institute who are registered as Ph.D. Scholars in UGC recognized Indian Universities / Deemed Universities/ Colleges, IIMs having University/IIMs approved Ph.D. Programme to pursue and complete their Doctoral Research in Auditing, Taxation, Commerce, Management and Accounting Discipline. The candidates must have confirmed Ph.D. Registration at any of the Institutions mentioned above on the last date of application.

## SCHOLARSHIP

The scholarship of Rs. 50,000 per month for 3 years will be given to maximum 5 scholars.



For further details please write to:

**Secretary, Research Committee**

The Institute of Chartered Accountants of India  
ICAI Bhawan, Indraprastha Marg, New Delhi – 110 002, India

☎ +91 120 3876877 ✉ doctoral.research@icai.in  
Mob No. 7836040914

## Eligibility CRITERIA

- Member of the ICAI
- Minimum of 75% marks in 10th and 12th standard.
- NET/SLET and M Phil from a recognized university will carry weightage in the assessment of research proposal.
- The scholar should not be more than 40 years of age on the last date of application.
- Candidates who have already availed any other doctoral fellowship awards are not eligible to apply.

## How to APPLY

The application along with research proposal, abstract (3000 and 300 words respectively) and all the enclosures must be sent to Research Committee before the last date of submission duly signed and stamped by the Ph.D. Registered Institution.

## Scholarship TOPICS

*The following topics are suggested:*

1. Human Resource Accounting
2. Simplification of Human Resource Laws
3. Government Sector Accounting
4. Integrated Reporting
5. International Taxation Laws
6. Water Audit

*The Research Committee will decide the suitability of the topics from time to time.*

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**[https://www.icai.org/new\\_post.html?post\\_id=16491](https://www.icai.org/new_post.html?post_id=16491)**

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## Programmes by IIM Ahmedabad Under MoU with ICAI

The Memorandum of Understanding (MoU) signed between The Institute of Chartered Accountants of India (ICAI) and Indian Institute of Management Ahmedabad (IIMA) enables mutual co-operation for offering and co-hosting open-enrolment and customized training programmes exclusively designed, developed and delivered for Chartered Accountants

As part of the MOU, IIMA has been offering two programmes explicitly designed for young and experienced CAs. This year, because of Covid-19 pandemic, the two programmes will be conducted via an online platform in 100% live sessions through direct-to-device mode [D2D].

- Management and Finance for Young Chartered Accountants: November 28, 2020 – March 11, 2021
- Management and Finance for Experience Chartered Accountants: December 19, 2020 – March 31, 2021

### Programme Highlights:

- Interactive Case-based teaching pedagogy
- Intensive and interactive learning through 2-way live sessions
- Broad range of topics that will help acquire cross-functional perspective and improve personal effectiveness to become an effective manager
- Alumni status from IIM Ahmedabad

For more details, please visit ICAI website at <https://www.icaai.org/post/programmes-by-iim-ahmedabad-under-mou-with-icaai>

Members can also get in touch with the Programme Coordinators at IIMA on E-mail: [caprogram@iima.ac.in](mailto:caprogram@iima.ac.in) or can call:

**Ms. Krishna Dhamecha** @ +91-79-7152 6420 for Young CA programme

**Mr. Ashutosh Rajput** @+91-79-7152 6423 for Experienced CA Programme

## Notification No. 1-CA(7)/193/2020 dated 19<sup>th</sup> October, 2020

### NOTIFICATION

New Delhi, the 19<sup>th</sup> October, 2020

Whereas certain draft regulations further to amend the Chartered Accountants Regulations, 1988, were published by the Council of the Institute of Chartered Accountants of India, as required by sub-section (3) of section 30 of the Chartered Accountants Act, 1949 (38 of 1949) in the Gazette of India Extraordinary, Part III Section 4, vide notification F.No.1-CA(7)/193/2020 dated the 4<sup>th</sup> May 2020, inviting objections and suggestions from persons likely to be affected thereby, before the expiry of forty-five days from the date on which the Gazette containing the said draft regulations was made available to the public;

And whereas the said Gazette was made available to the public on the 4<sup>th</sup> May 2020;

And whereas the objections and suggestions received from the public on the said draft regulations have been considered by the Council of the Institute;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 30 of the aforesaid Act, the Council, with the approval of the Central Government, hereby makes the following regulations further to amend the Chartered Accountants

Regulations, 1988, namely:-

- (1) These regulations may be called the Chartered Accountants (Amendment) Regulations, 2020.
- (2) They shall come into force on the date of their publication in the Official Gazette.
- In the Chartered Accountants Regulations, 1988 (hereinafter referred to as the said regulations), in sub-regulation (1) of regulation 25E,-
  - for the words, brackets and figures, “appeared in the Senior Secondary (10+2)”, the words and figures “passed the Class 10<sup>th</sup>” shall be substituted;
  - the words “for the purpose of admission to graduation course” shall be omitted.
- In sub-regulation (1) of regulation 25F of the said regulations,-
  - for clause (a), following clause shall be substituted, namely:-

“(a) is registered with the Board of Studies of the Institute on or before the 1<sup>st</sup> day of January or the 1<sup>st</sup> day of July for the examination to be held in the months of May/June or November/December respectively; and has complied with such other requirements as may be decided by the Council from time to time; and”;

(ii) in clause (b), for the word “passed”, the words “appeared in” shall be substituted.

4. In regulation 28F of the said regulations,-

(i) for sub-regulation (3), the following sub-regulation shall be substituted, namely:-

“(3) No candidate shall be registered for the Intermediate Course unless he has passed the Foundation Examination under these regulations and Senior Secondary (10+2) examination conducted by an examining body constituted by law in India or an examination recognised by the Central Government or the State Government as equivalent thereto for the purpose of admission to graduation course and has complied with such other requirements as may be decided by the Council from time to time.”

RAKESH SEHGAL, Acting Secretary  
[ADVT-III/4/Exty./306/2020-21]

**Note:** The principal regulations were published in the Gazette of India, Extraordinary, dated the 1<sup>st</sup> June, 1988 vide number 1-CA(7)/134/88, dated the 1<sup>st</sup> June, 1988 and subsequently amended by the following numbers:-

- (i) Notification No.1-CA(7)/1/89, published in the Gazette of India, dated the 7<sup>th</sup> October, 1989;
- (ii) Notification No.1-CA(7)/10/90, published in the Gazette of India, dated the 19<sup>th</sup> January, 1991;
- (iii) Notification No.1-CA(7)/11/90, published in the Gazette of India, dated the 19<sup>th</sup> January, 1991;
- (iv) Notification No.1-CA(7)/12/91, published in the Gazette of India, dated the 23<sup>rd</sup> February, 1991;
- (v) Notification No.1-CA(7)/13/90, published in the Gazette of India, dated the 2<sup>nd</sup> February, 1991;
- (vi) Notification No.1-CA(7)/19/92, published in the Gazette of India, dated the 7<sup>th</sup> March, 1992;
- (vii) Notification No.1-CA(7)/28/95, published in the Gazette of India dated the 1<sup>st</sup> September, 1995;
- (viii) Notification No.1-CA(7)/30/95, published in the Gazette of India, Extraordinary dated the 13<sup>th</sup> March, 1996;
- (ix) Notification No. 1-CA(7)/31/97, published in the Gazette of India, dated the 16<sup>th</sup> August, 1997;
- (x) Notification No. 1-CA(7)/44/99, published in the Gazette of India dated the 26<sup>th</sup> February, 2000;
- (xi) Notification No.1-CA(7)/45/99, published in the Gazette of India, dated the 26<sup>th</sup> February, 2000;
- (xii) Notification No.1-CA(7)/51/2000, published in the Gazette of India, Extraordinary, dated the 17<sup>th</sup> August, 2001;
- (xiii) Notification No.1-CA(7)/59/2001, published in the Gazette of India, Extraordinary dated the 28<sup>th</sup> September, 2001;
- (xiv) Notification No.1-CA(7)/64/2002, published in the Gazette of India, Extraordinary dated the 31<sup>st</sup> March, 2003;
- (xv) Notification No.1-CA(7)/64A/2003, published in the Gazette of India, Extraordinary dated the 4<sup>th</sup> December, 2003;
- (xvi) Notification No.1-CA(7)/83/2005, published in the Gazette of India, Extraordinary dated the 28<sup>th</sup> July, 2005;
- (xvii) Notification No.1-CA(7)/84/2005, published in the Gazette of India, dated the 17<sup>th</sup> June, 2006;
- (xviii) Notification No. 1-CA(7)/92/2006, published in the Gazette of India, dated the 13<sup>th</sup> September, 2006;
- (xix) Notification No. 1-CA(7)/102/2007(E), published in the Gazette of India, dated the 17<sup>th</sup> August, 2007;
- (xx) Notification No.1-CA(7)/116/2008, published in the Gazette of India, dated the 25<sup>th</sup> September, 2008;
- (xxi) Notification No.1-CA(7)/123/2008, published in the Gazette of India, dated the 3<sup>rd</sup> December, 2008;
- (xxii) Notification No. 1-CA(7)/145/2012, published in the Gazette of India, Extraordinary dated the 1<sup>st</sup> August, 2012;
- (xxiii) Notification No. 1-CA(7)/154/2014, published in the Gazette of India, Extraordinary dated the 22<sup>nd</sup> July, 2014;
- (xxiv) Notification No. 1-CA(7)/167/2014, published in the Gazette of India, Extraordinary dated the 23<sup>rd</sup> January, 2015;
- (xxv) Notification No.1-CA(7)/178/2016, published in the Gazette of India, Extraordinary dated the 25<sup>th</sup> May, 2017.

**Comments/suggestions if any may be sent to email id - [comments.mss@icai.in](mailto:comments.mss@icai.in)**

## ICAI in Media : Glimpses of September - October, 2020

### BusinessLine

#### 'Assessment' on cards for some CA students, former auditors

New Delhi | September 25, 2020

**Move aimed at maintaining high quality of the audit profession: ICAI chief**

KR SRIVATS

New Delhi, September 24

Students who have passed their CA final exams and not taken membership of the CA Institute for three years or more from the date of passing the exams better watch out.

The Institute of Chartered Accountants of India (ICAI) proposes to mandate such students to take and pass an "Assessment" if they desire to take membership of the CA Institute after such three-year period.

A similar routine of an "Assessment" (most likely refresher course) will be mandated even for those ex-members who want to restore their name after a period of three years or more from the date of the removal of their names due to non payment of membership fees or any other reason, Atul Kumar Gupta, President, ICAI, told *BusinessLine*.

There are as many as 19,000 students who have not taken ICAI membership even after qualifying in CA final exam, he said.

This is because most of them are working in various companies and claiming themselves to be chartered accountants.

#### Tightening the rules

"As per our Act, unless and until you take membership, you cannot write FCA or CA before your name. You are only a final passed student," Gupta said.

Likewise if somebody's name has been removed for non-payment of fees for three consecutive years and above, he has to go in for refresher course (Assessment) if he wants to get certificate of



Atul Kumar Gupta, President, ICAI

practice and claim membership.

"We have to see whether member who is coming back is getting himself updated or not. Somebody who is looking to take up audit profession after a long gap, we need to assess if they are well versed with recent changes in accounting standards. How it will be assessed...It's being discussed and deliberated. We decided internally that it will be a refresher course. Modalities will be decided by the central council and then government approval will be sought," he said.

For now, the ICAI has come out with a draft regulation (that has received the Centre's in-principle approval) which has been put up for public comments for 45 days, Gupta said. Gupta said there are over 60,000 members whose names have been struck off for non-payment of fees.

#### Industrial training

Meanwhile, ICAI is also proposing to tweak the period of industrial training that an articulated assistant can opt for during his three-year articleship.

"We are increasing the period of industrial training. Earlier the maximum period for industrial training was 12 months.

"Now it is proposed to permit from 6 months to 18 months. Earlier it was 9-12 months. So one can go in for short term industrial training of even 6 months as well," Gupta said.

### THE ECONOMIC TIMES

#### Companies made 2,923 job offers to CA students during campus placement this year: ICAI

New Delhi, Last Updated: Sep 29, 2020

Chartered accountants' apex body ICAI on Tuesday said a total of 2,923 job offers were made by companies during campus placement to its newly qualified students this year, and the average annual salary offered was Rs 8.91 lakh. Job offers this year were 37 per cent higher compared to offers made in August-September period of 2019.

Generally, the Institute of Chartered Accountants of India (ICAI) organises campus placement sessions twice every year -- in February-March and August-September.

However, amidst the coronavirus pandemic, only one campus placement session was organised this year.

In a release, the institute said it "reported an increase of 37 per cent in demand for newly qualified CAs for employment in industry through its campus placement programme concluded recently".

### BusinessLine

#### ICAI has not lost its regulatory teeth, says President Gupta

New Delhi | September 28, 2020

#### 'Has taken action on over 100 erring members over the last one year'

KR SRIVATS

New Delhi, September 28

The CA Institute has stepped up oversight on the conduct of its members, having proactively taken disciplinary action on more than 100 erring members over the last one year, its President Atul Kumar Gupta said.

The professional body -- which faced criticism in recent years for treating its members with kid gloves -- has now geared up its disciplinary mechanism to bring its erring members to book and introduced newer concepts like e-hearings to speed up the processes.

#### Better monitoring

"Members need to realise that ICAI has stepped up its monitoring and would not hesitate to take disciplinary action on erring members. We are now



Atul Kumar Gupta, President, ICAI

moving the names of members for a period of one month to as much as entire life. Few days ago, we had removed a member from our register for life," Gupta told *BusinessLine*.

He highlighted that as many as five benches are available to take up the matters. "Even during this Covid-19 period, we are regularly doing e-hearings. More than 100 names have been ordered to be removed. Our target is to complete the pendency cases by end of March 2021. Our aim is that any new case coming to ICAI should see the light of the judgment within 365 days. This should serve as a deterrent on our members," Gupta. He may be recalled that the government

had few years ago set up the National Financial Reporting Authority (NFRA), which has power to oversee audit of listed companies and large private companies. This move was seen as an effort of the Government to clip the wings of the CA Institute, which was seen to be "very soft" in disciplining its erring members.

#### Regulatory teeth

Asserting that ICAI still has lot of regulatory teeth, Gupta said "they (NFRA) only have power to debar members from conduct of audit. But we have power to remove the member from our register for life".

Meanwhile, the ICAI had recently removed the names of two chartered accountants -- Anil Saxena and Rajeev Kumar Bansal -- from the Register of Members for a period of one year for professional misconduct. Gupta also said that ICAI is now running a dedicated portal where the orders of disciplinary action taken against its members are published.

## THE TIMES OF INDIA

## Demand for CAs up 37%, pay packages rise too

Sindhu Hariharan | TNN | Oct 13, 2020

## Demand for CAs up 37%, pay also rises

Sindhu Hariharan  
@timesgroup.com

Chennai: There has been a 37% increase in demand for chartered accountants (CAs) and their pay packages has seen an upswing too this year. In a first-ever virtual campus placement programme concluded last month, 2,923 jobs were offered for fresher CAs compared to 2,135 in the previous year. The average annual salary offered also rose to Rs 8.9 lakh from Rs 7.4 lakh last year.

Atul Kumar Gupta, president at the Institute of Chartered Accountants of India (ICAI), the apex body for CAs, said, "Their (CAs) role is more important in the current circumstances.

Today's CAs can be comp-

lete business solution providers and companies across sectors are looking for "sound professional advisers who can manage their finances and working capital, thus providing a lifeline to other functions", he added.

At Rs 23.3 lakh, the maximum salary package offered for domestic posting this year was close to last year's Rs 24-lakh per annum. ICAI does not disclose the details of salary packages.

In addition to demand for freshers, the need for experienced CAs also rose this year. In ICAI's jobs drive for experienced CAs held in September, the number of recruiters doubled and listed vacancies are reported to have grown four times as compared to the previous year.

## BusinessLine

## CA exams postponed by nearly three weeks

KR Srivats, New Delhi | Updated on October 16, 2020

## Covid impact: CA Institute to work out logistical issues

The CA Institute has rescheduled its November exams (foundation, intermediate and final) across the country by nearly three weeks to sort out the logistical challenges that have arisen due to the pandemic.

As against the earlier announced exam schedule from November 1-18, the CA Institute has now decided to hold the exams from November 21 to December 14, Atul Kumar Gupta, President, ICAI, confirmed.

"After assessing the logistical challenges arising due to festival season in Covid-19 pandemic times and in the best interest of students, we have decided to hold exam after 20 days from the schedule announced earlier," Gupta told BusinessLine.

It may be recalled that the Institute of Chartered Accountants of India (ICAI) had not conducted any exams (foundation, intermediate or final) in May this year due to the lockdown in the country from March 25.

One of the challenges that the CA Institute faces is keeping the exam centres compliant to the health protocols announced by the Centre and the State governments, sources said. If some exam centres are found to be non-compliant, then alternative venues have to be selected.

Also, since exam venues have to be published on the 'Admit card' provided to students taking the exam, the CA Institute cannot afford to be lax on this front, they said. To minimise inconvenience to students and also given the festival season, it was felt that postponing exams will be the right approach for now.

## Bihar polls

This reschedule of CA exams will come in particularly handy for those students who are taking exams in the centres of Bihar, which is going to polls on October 28, November 3 and November 7.

The Election Commission had on September 25 announced three-phased poll for the legislative assembly of Bihar.

For such students including those taking exams where Parliamentary by-elections/assembly by elections were announced in different States, the CA Institute had on October 8 announced that exams will be held on November 19, 21, 23 and 25 instead of November 2, 3, 6 and 7.

Now the revised schedule would apply to all CA exams across the country and exams will be held between November 21 to December 14.

The CA Institute had on October 8 announced that option for "opt out" will continue in operation during the conduct of the entire November 2020 examinations.

## EducationTIMES

## ICAI allows provisional registration in CA Foundation course after class X examination

TNN | Posted on Tuesday, October 20, 2020

This will help the students to prepare for Foundation course while pursuing Class XI & XII and thus students would have ample time to update their knowledge & acquire requisite techniques to appear & pass CA Foundation

With an aim to provide quality education and keeping the future global business competencies in mind, the Institute of Chartered Accountants of India (ICAI) has amended a regulation to enable candidate to provisionally register in the Foundation Course of ICAI after passing class X examination.

"The Institute has recently got the approval of Government of India for amending the Regulations 25E, 25F and 28F of Chartered Accountants Regulations, 1988 which now enables candidate to provisionally register in the Foundation Course of ICAI after passing Class X examinations. However, provisional admission to Foundation course will only be regularised once the candidate clears class XII exam," said Atul Kumar Gupta, president, ICAI.

"The basic objective behind the proposal was to allow students to provisionally register in Foundation Course after passing the class X

examination. This will help the students to prepare for Foundation course while pursuing class XI & XII and thus students would have ample time to update their knowledge & acquire requisite techniques to appear & pass CA Foundation with flying colors. ICAI also offer free online classes to students of Foundation which can be accessed anytime, anywhere," he further added.

After appearing in class XII examination in February/March, the students would then be eligible to appear in Foundation Examination to be held in May/June.

## Advantages with new entry requirement

Students can provisionally register for CA Foundation Course after passing the class X examination hence providing them with more time for developing, understanding and preparing for the professional course.

"Candidates can complete four month study period while pursuing class XI and XII and appear in Foundation Examination in the month of May/June immediately after appearing in class XII."



## Atmanirbhar: Chartered accountants to act as catalyst for re-booting MSME Sector

New Delhi, Updated: October 20, 2020, 16:57 IST

As far as guidance to MSME and Rural entrepreneurs is concerned, facilitation desks on pro bono basis at each district will play a very effective role to guide them in developing their business strategy, tax compliances, how various government schemes can help them and also towards resource mobilisation.

Prime Minister Narendra Modi's 'Atmanirbhar Bharat' clarion call, in the times of economic shock from the COVID19 pandemic, can be the start of a golden era where India can make a fundamental transformation.

As on date, the MSME sector, accounts for nearly half of India's total exports. However, India's large trade deficit makes it imperative for the government to draw a framework to help companies in not just reducing reliance on imports but also promoting exports in a big way. As challenging circumstances due to Covid-19 trigger need for immediate action, Government has found an answer in Aatmanirbhar Bharat, and undertaken restorative measures towards further expansion of economic activity, with special emphasis on the MSME sector in order to combat the widespread predicament of massive unemployment and once again stimulate the growth cycle.

Since the leadership has identified the medium, small, and microenterprise (MSME) sector as the rock on which the self-reliant dream is built, this shift too can be led by such players albeit support from various stakeholders. The need of the hour is to offer them a supporting hand in terms of policy and guidance.

ICAI new initiatives ranging in the areas of mentorship program, facilitation centre in each district of the country and MSME checklist will prove very important catalyst in this direction. Where MSME are looking for re-organising their working capital, make or buy decision, new investment and return thereof, Chartered Accountants can play a very important role as business solution provider. They are being trained in three-year rigorous training to handle wide range of challenges and having hands-on experience. The Institute of Chartered Accountants of India has over 3,20,000 members strong Chartered Accountants community, especially 1,00,000 Small and Medium practicing firms spread into every part of the country including in B & C Towns and can act as a pilot for trying out this idea to connect MSMEs entrepreneurs.

One important factor in Atmanirbhar Bharat i.e. "Vasudhaiva Kutumbakam" is to see the convergence of global trade and for that we need to re-skill our entrepreneur with added global connectivity. Since ICAI has a strong presence of more than 40,000 members at leadership level in more than 100 countries, they can play an important role in being "Net Exporter". Recently, ICAI added few more countries into their official global presence making it to 42 countries. This network can be utilised by Indian MSMEs for gaining export market access. On its part, the Government can support through organisation of exhibitions, B2B meetings, networking meets for MSMEs to gain exposure and seize opportunities.

In addition to the launch of MSME Mentorship programme, the Institute has issued a "MSME Business Continuity Checklist" providing information on number of factors that require special attention by the management of MSME which can guide their initiatives to face this tough time. This checklist provides guidance in the areas ranging from re-assessing their operating cycle, assessment of working capital requirement, how to improve liquidity position, due diligence in relation to trademark, Insurance and IT System and how they can become an exporter in the times to come.

As far as guidance to MSME and Rural entrepreneurs is concerned, facilitation desks on pro bono basis at each district will play a very effective role to guide them in developing their business strategy, tax compliances, how various government schemes can help them and also towards resource mobilisation. ICAI has requested its 164 branches to start these in-house facilitation centres at their premises and request local administration and tax Officials to provide support. Later on, endeavour will be to seek support from the government to participate to expand reach at each of the district of the Country. Any entrepreneur or new start-up looking for guidance will be facilitated at these centres to clarify their doubts. These facilitation centres can also act as a research centre wherein we can identify various aspects/areas where unique training/schemes can be designed/ developed to support them.

This article is authored by CA. Atul Kumar Gupta, President ICAI.

## Classifieds

**5823** Chennai FCA 27 years' experience in industry and practice, seeks to join CA firms on partnership/retainership/consultant. Contact: [praraj7@yahoo.com](mailto:praraj7@yahoo.com)

**5824** We are 52 years old CA firm having H.O. at Delhi and branches at 8 places are looking for 15 or more years old proprietor firm at Kanpur for merger, additional DISA/CISA is preferred. Interested firms can send proposal with profile

at [jk.sarawgi@jksco.in](mailto:jk.sarawgi@jksco.in), Phone: 9871599182

**5825** We, 37 years old CA firm having 20 partners and 19 branches, seek partners who hold CoP for long term association. Contact: Mobile-9910691575 or e-mail: [vncgzb@gmail.com](mailto:vncgzb@gmail.com)

**5826** We are a 40 year old professional practice, looking for firms which are interested to officially merge with us. Please mail: [cafirmgujarat@gmail.com](mailto:cafirmgujarat@gmail.com)

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connect and enrich your knowledge &  
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**The Institute of Chartered Accountants of India**  
(Set up by an Act of Parliament)

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# Strengthening the **Economy** with Excellence, Independence and Integrity

## ABOUT ICAI

The Institute of Chartered Accountants of India (ICAI) was established by an Act of Parliament in 1949 and since inception has proven its mark as an elite institution devoted to uphold the values of transparency, accountability and integrity. It has indeed come a long way, be it in terms of numbers, skills & utilities, recognition from society, or its role in nation building.

## PROFESSIONAL COMPETENCE

- More than 10 Lakh Members & Students
- 164 Branches & 34 Overseas Chapters
- Promoter of Values, Virtues & Vision of Excellence
- Robust Regulator & Developer of Trusted Professionals
- Sharing Knowledge to Shape Policies
- Trusted Partner with Government Initiatives
- An Educator Par Excellence - Keeping Pace with New Era of E-learning
- Placing Indian CAs at Global Pedestal by entering into Mutual Recognition Agreements (MRAs) with Global Accounting Bodies



## THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)  
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# The Institute of Chartered Accountants of India

## Your Thought Leadership is valuable to ICAI

Inviting Articles, Research papers and Case Studies

### #Inspiring Professionals

Could your thought be the next vector in the changing  
accounting landscape?  
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### #Control gets a wide berth in the new accounting age

Write a business success story?  
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### #How Sustainable we are?

Would Food & Beverage companies be in the red if they  
accounted for the true cost of water?  
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### #Coronavirus

The IBC responds  
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### #Gender Parity

By taking flexibility at work you may not equal but that does not  
necessarily mean you are less, it may be more  
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### #Valuation

What do you see when valuing a business?  
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### #Any other professional topic in mind?

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